United States Court of Appeals

for the Second Circuit

APPENDIX

75-7287
75-7320

ORIGINAL

In The

United States Court of Appeals

For The Second Circuit

UNITED BANK LIMITED,

Plaintiff-Appellee-Appellant,

vs.

COSMIC INTERNATIONAL, INC.,

Defendant-Appellee.

JANATA BANK and AMIN JUTE MILLS, LTD.,

Plaintiffs-Appellants,

vs.

COSMIC INTERNATIONAL, INC. and IRVING TRUST COMPANY,

Defendants-Appellees.

SONALI BANK and NISHAT JUTE MILLS, LTD.,

Plaintiffs-Appellants,

vs.

IRVING TRUST COMPANY and COSMIC INTERNATIONAL, INC.,

Defendants-Appellees.

NISHAT JUTE MILLS, LTD. and NATIONAL BANK OF PAKISTAN,

Plaintiffs-Appellees-Appellants,

vs.

COSMIC INTERNATIONAL, INC.,

Defendants-Appellees.

JOINT APPENDIX

(Continued on Next Page)

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PAGINATION AS IN ORIGINAL COPY

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9 — The Bangladesh Gazette of May 23, 1972 (Omitted here but printed at p. JA70) JA245

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10 — Bangladesh Abandoned Property (Control, Management and Disposal) Order 1972 (Omitted here but printed at p. JA74) JA246

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Transcript of Proceedings Dated October 21, 1974 . . . . . JA251

Exhibits Annexed to Foregoing Transcript:

Plaintiff's Exhibits:

11 — Letter From Zafar Ahmad Khan to Irving Trust Co., Dated January 22, 1972 . . . . . JA398

12 — Copies of Cablegrams JA400

U15 — Decision in Rahmania Trading Co. v. Eagle Star Insur. Co., Ltd., (Pakistan) JA403

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WITNESSES

Kazi Abdul Mazid:
Direct JA258

JUDGE BRIANT

72 CIV. 5209

72 Civ. 5209 United Bank Ltd.-v- Cosmic Int'l, Inc. 72 Civ. 5209

BRIEANT, J.

DATE	PROCEEDINGS	AMOUNT ORDERED OR ASSESSMENT RECEIVED
10-9-73	Filed stip & order extending pltffs' time to respond to written interrogs. to 11-9-73--Brieant,J.	
12-3-73	Filed stip. & order extending time of pltffs. Janata Bank & Amin Jute Mills,Ltd. to answer interrogs. to 12-3-73--Brieant,J.	
12-3-73	Filed response to notice to admit of pltff, United Bank Limited, by pltff. Amin Jute Mills Ltd.	
12-3-73	Filed response to notice to admit of pltff United Bank Ltd, by pltff, Janata Bank.	
12-3-73	Filed stip. & order extending time of pltffs to answer interrogs. to 12-17-73-- Brieant,J.	
12-7-73	Filed answers of pltff, Janata Bank to interrogs. of pltff, United Bank Limited	
1-8-74	Filed order that Amin Jute Mills,Ltd., Karachi,Pakistan; United Bank,Ltd., Dacca, Bangladesh; and United Bank Limited, Laldighi East, Chittagong, Bangladesh be made parties to these actions to respond to the complaints and counterclaims and to interplead their respective claims with those of the parties to these actions-that Irving deliver to and deposit into the registry of the Court the Trust receipts which are the subject matter of these actions-that upon delivery of said receipts by Irving, that Irving be discharged from any and all liability, that application may be made to the Court for a final judgment discharging Irving from any and all liability re: Trust Receipts--Brieant,J.-mailed notice	
1-8-74	Filed pltff's further interrogs.	
1-8-74	Filed affdvt. of Richard A.Self	
1-8-74	Filed pltff's statement re: proposed order.	
1-15-74	Received Trust Receipts as directed in this order-Placed same in Registry of the Court-Chronicle #1100-	
1-23-74	Filed Clerk's Certificate of mailing of additional summon & complaint to United Bank, Ltd. Janata Bank Dacca, Bangladesh United Bank Limited Laldighi East Chittagong, Bangladesh.	
1-24-74	Filed answer of pltff, Amin Jute Mills,Ltd. to interrogs. of pltff, United Bank Ltd.	
1-24-74	Filed additional summons & return, second complaint & order filed 1-8-74- & Irving's answer & counterclaim on Carter Ledyard & Milburn by Edward R.Fox-1-8-74.	
1-24-74	Filed deft. Irving Trust notice of motion for final judgment. Returnable 2:15:74.	
1-24-74	Filed deft. Irving Trust memo in support of motion for final judgment.	
1-25-74	Filed Amin Jute Mills Ltd. denial that it is subject to the jurisdiction of this Courtes	

UNITED BANK LTD.... VS COSMIC INTERNATIONAL, INC. 72 Civ 5209 CLB

DATE	PROCEEDINGS	AMOUNT

Filed Memorandum Decision.#42153.....National Bank of Pakistan is entitled to recover the sum of $97,043.50, plus interest at 6%, computed from 2-27-73, the date filing of the earlier of the two actions. United Bank Ltd. is entitled to recover the sum of $433,365.96, plus interest at 6%, computedf from 12-14-72, the date of the earlier of the two suits. Settle final judgment on notice....Brieant,J. mn

Filed Pltffs' Notice of for an order staying enforcement of any judg. to be entered herein until 30 days after the entry of such judg.....ret. 4021-75.... at 9:30Am Rm 519.

Filed Memo of Law in support of pltffs' motion to stay entry of judg.

Filed Deft. Irving Trust Co.'s Affdvt. by T. M. Weitz in connection with the motions ofSonali Bank and Nishat Jute Mills, Ltd., Pltffs.

Filed Stip. & Order that certain monies & funds are to be pltace as directed in this stip....Brieant,J.

Filed Consent Order that the exrcution of and any proceedings to enforce the judg. entered herein be stayed pending the determigation of the appeal of Janata Bank and Amin Jute Mills, pltffs. in 73-393 from such judg. provided that such pltffs. file and have approved by this Court on or before 6-2-75 a bond in the sum of $5,575, conditioned that such pltffs. will pay to United Bank Ltf. all costs which are taxed against such pltffs. pur to such judg. and all costs allowed against such pltffs. on appeal herein..etc..Brieant, J.

Filed Judgment that this Court's orders dated 12-8-72, Mar 9 and May 23, 73 be vacated as of 5-28-75; and that upon the maturity on 5-28-75 of the 6 month certificate of deposit inthe principal amount of $519,596.39 held by Irving Trust Co in the name of "Cosmic International, Inc. Trust Account for Principals #1, Subject to Attachment by United Bank Ltd. and Court Orderes of 12-8-72, Mar 9 and May 23-73"Irving Trust Co shall pay to United Bank Ltd. the sum of $498,196.06.....and shall pay the balamne of the proceeds of that certifiaate of deposit ($39,337.08) to Burlingham, Underwood & Lord as Attys for Cosmic International, Inc;and that United Bank Ltd.(pltff in 72 C 5209) recover its costs of action from Janata Bank and Amin Jute Mills Ltd.(pltffs in 73C 393) and that Irving TRust CO and Cosmic International Inc. hereby discharged from all and any liability with respect to the subject matter of this litigation... .....Brieant,J.....mn.....Judgment Entered 5-27-75-Clerk ent 5-28-75.

Filed Supersedeas Bond in the sum of $5,575.00 ....Bond#J 88 74 140 by Fidelity & Deposit Co.

Continue on page #6

72 Civ. 5209 United Bank Ltd. -v- Cosmic Int'l,Inc.,et al 72 Civ. 5209

CIVIL DOCKET Page 4 BRIEANT, J.

DATE	FILINGS - PROCEEDINGS	AMOUN REPORTED VOLUME RETURN
Feb. 19-74	Filed pltffs' Janata Bank,et ano interrogs.	
Feb. 13-74	Filed memo endorsed on motion filed 2-4-74--deft's(Irving Trust) motion is granted. no opposition. So ordered--Brieant,J.	
Feb. 25-74	Filed memorandum--The Court havingmade two separate memorandum endorsements, dated 2-13-74--On said endorsements the words "So Ordered" are modified to delete such words, and to substitute Settle a single final order on notice with original and three additional copies to be filed with the Court, entering final judgment as requested in the aforesaid motions of Irving Trust only--Brieant,J.	
Feb. 22-74	Filed letter dated 2-6-74 addressed to Judge Brieant- from Saul I. Weinstein	
Feb. 27-74	Filed stip. & order extending time of pltffs. Janata & Amin Jute to answer to further interrogs. to 3-11-74--brieant,J.	
Mar. 5-74	Filed answers of deft. Cosmic to interrogs.	
MAR 5-74	Pre-trial conference held.	
Mar. 11-74	Filed order dismissing action as to Irving Trust Co. and Irving be discharged from any and all liability with respect to the trust receipts & drafts, that each of the parties and any other claimants of the aforesaid trust receipts and drafts or of the proceeds therefrom are permanently enjoined from instituting or prosecuting any action against Irving in any other Court relating in any way to either the said trust receipts & drafts,etc.--Brieant,J. Judgment entered--Clerk-mailed notice ent. 3-13-74.	
Mar. 12-74	Filed answers of pltff. Janata Bank to interrogs. of pltff. United Bank Ltd.	
Jul.3-74	Filed Stip & Order that undersigned for this action only, all pertinent objections as to admissibility & relevance, the following statements are true, etc.....BRIEANT,J.	
10-21-74	NON-JURY TRIAL BEGUN & CONT'D TRIAL CONCLUDED (1day) JUDGE'S DECISION RESERVED	
Dec 11-74	Filed Post-Trial Memo on behalf of Bangladesh Pltffs.	
12-18-74	Filed transcript of record of proceedings, dated Oct 21,1974	
Jan 14-75	Filed Bangladesh Pltffs's reply to Pakistan Pltff....Memorandum.	
Jan 16-75	Filed Reply Memo. on behalf of united Bank Ltd.	
4-2-75	Filed Trial Memo of United Bank Ltd.	
4-2-75	Filed Post Trial memo of United Bank Ltd.	
4-2-75	Filed Affdvt of L. L. Stanton, Jr. dated 7-27-73.	

Continue on page 45

UNITED Bank Ltd vs Cosmic International Inc. 72 C 5209 CLB Page #6

DATE	PROCEEDINGS
5-29-75	Filed Janata Bank and Amin Jute Mills, pltffs in acition #2 Notice of Appeal to USCA from Final Judg. entered on 5-27-75.....Copies Mailed on 6-3-75 to: Carter, Ledyard & Milburn, Esqs., Burlingham, Underwood & Lord, Esqs. Winthrop, Stimson, Putham & Roberts. (also docketed in 73 C 393)
6-11-75	Filed Notice to Docket Clerk that the record has been certified and transmitted to USCA on 6-11-75.
6-12-75	Filed Pltff's Notice of Entry of Judgment ent. 5-27-75.
6-12-75	FiledPltff. United Bank Ltd's Notice of Appeal to USCA from the final judg. ent. 5-27-75. Copies Mailed on 6-13-75 to : v Winthrop, Stimson, Putnam & Roberts & Burlingham Underwood & Lord & Nierenberg, Zeif & Weinstein.

DOCKET ENTRIES - SONALI BANK & NISHAT JUTE MILLS LTD., JA8

CIVIL DOCKET v. IRVING TRUST COMPANY

UNITED STATES DISTRICT COURT

Jury demand date:

73 Civ. 638

D. C. Form No. 106 Rev.

TITLE OF CASE	ATTORNEYS
SONALI BANK & NISHAT JUTE MILLS, LTD.,	For plaintiff: NIERENBERG, ZEIF, & WEINSTEIN Michael F. Bennis 230 Park Avenue New York, N.Y. 10017
- vs -	
3-1124 IRVING TRUST COMPANY & COSMIC INTERNATIONAL INC.,	For defendant: WINTHROP STIMSON PUTNAM & ROBERTS (Irving Trust Co.) 40 Wall St. N.Y.C. 10005 (943-0700) Burlingham Underwood & Lord(deft. Cosmic Int 25 Broadway, NYC 10004

STATISTICAL RECORD	COSTS		DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed X	Clerk		2/27/73 3/2/73	Nierenberg USA	N	N
J.S. 6 mailed ✓	Marshal					
Basis of Action Diversity of Citzenship. Action on bills of exchange & goods sold & delivered.	Docket fee					
Action arose at:	Witness fees					
	Depositions					

JUDGE BRIEANT

NALI BANK & NISHAT JUTE MILLS LTD., - vs - IRVING TRUST COMPANY., et al

73 CIV. 858

	PROCEEDINGS	Date Order or Judgment Noted
27-73	Filed Complaint & issued summons.	
3,73	Filed summons and marshal ret. served by George H. Graf(Irving Trust)3-1-73 and Dan Keen(Cosmic Int. Inc. 3-1-73.	
2,73	Filed ANSWER to comp. and counterclaim and cross claim for interpleader for deft. Irving Trust Co.	WSP&R
5-73	Filed deft. Cosmic International Incis ANSWER with counterclaim for Interpleader	BU&L
5-73	Filed deft. Cosmic International Inc's ANSWER to cross-claims of deft. Irving Trust Co.	BU&L
0-73	Filed Pltffs reply to counterclaims contained in answer of deft. Cosmic International Inc.	NZ&W
30-73	Filed Pltffs Interrogatories adressed to the defts	
9-73	Filed Order of Attachment, Ordered that the pltff's undertaking is fixed in the sum of of $12,000.00. Ordered that the Marshal, USDC, SDNY, levy within his jurisdiction upon such property as will satisfy pltff's demand of $97,043.50 together with probable interest,costs, etc. Brieant J. m/n	
1-73	Filed deft. Cosmic International Inc's Order to Show Cause, Re: deposit monies in the registry, ret before Brieant J.	
1-73	Filed memo endorsed on Order to Show Cause dtd. 5/21/73, Motion disposed of at hearing held this day, settle order on 5 days notice, see transcript of hearing So Ordered Brieant J. m/n	
-73	Filed deft's. Irving Trust Co. answer to cross-claim.	WSP&R
3-73	Filed deft's. Irving Trust Co. answer to pltf's. first set of interrogatories.	
-73	Filed pltf's. affidavit in opposition to motion by deft. for an Order of Interpleader,etc.	
4-73	Filed deft's. memorandum of law in support of orderto show cause.	
9-73	Filed memo of law, in suppport of order of attachment.	
10-73	Filed Bond for the Undertaking on attachment in the sum of $12,000 by Fidelity & Deposit Co. of Maryland.	
23-73	Filed Con sent Order, that the amt to be held hereafter by Irving Trust Co, under attachment by the U.S. Marshal pursuant to an order of this court dtd. 5/9/73 shall be $109,610.77 and it is further ordered that any additional funds in excess of the said amt which Irving Trust Co. may be holding purusant to said order of attachment are hereby released from said attachment, So Ordered Brieant J.	
24-73	Filed deft. Cosmic International, Inc's memo of law in support of order to Show Cause	
24-73	Filed Consent Order thatthe "Third Calim" in favor of pltff. asserted in par 7-11 be dismissed without prejudice, this dismissal shall have no effect on other claims alleged in either of the two above captioned actions, So Ordered Brieant J.	
13,73	Filed Answer of deft. Cosmic International to the pltf. first set of interrogatories.	
16-73	Filed Deft. Irving Trust Co. notice of motion for an order requiring response to Complaint and counterclaims. Ret. Sept. 7, 1973.	
16-73	Filed deft. Irving Trust memo in support of motion for discharge in interpleader.	
2-73	Filed memo endorsed on motion filed 8-16-73--Those separate items of relief numbered (a) thru. (c) inclusive are granted-jurisdiction is reserved re: items (d) and (e)--Settle an order on not less than (5) days notice, making provisions for notice to the possible claimants, and granting the relief herein requested-Brieant,J.	
2-73	Filed pltff's memorandum of law-(filed in 72-Civ. 5209)	
2-73	Filed ~~pltff's~~ memorandum of law (deft's supplemental memo.) (filed in 72 Civ. 5209)	
2-73	Filed affdvt. of John S. Rogers on behalf of Cosmic.	
20-73	Filed pltffs affdvt & notice of motion for consolidation. Ret. 11-30-73.	

cont'd on page 2

73 Civ. 858 Sonali Bank & Nishat Jute Mills,Ltd. -v- Irving Trust Co. 73 Civ. 858

CIVIL DOCKET Page 2 BRIEANT,J.

DATE	FILINGS - PROCEEDINGS	AMOUNT REPORTER'S EMOLUMENT RETURN
Dec. 13-73	Filed stip. & order consolidating this action with 73 Civ. 2736 for all purposes--Brieant,J. mailed notice	
Jan. 8-74	Filed order that Nishat Jute Mills Ltd., Karachi,Pakistan and National Bank of Pakistan,Karachi,Pakistan; shall respond to the complaints and counterclaims in 73-858 and interplead their respective claims with those of the parties to that action--that Irving deliver to and deposit into the Registry of theCourt the drafts, that upon the delivery by Irving of the said drafts application may be made to the Court for a final judgment discharging Irving from any and all liability--Brieant,J.-mailed notice.	
Jan. 15-74	Received Trust Receipts as indicated in this order & placed same in Registry of this Court-Envelope #1508.	
Feb.4-74	Filed deft. Irving Trust notice of motion for Final Judgment. Returnable 2-11-74.	
Feb.4-74	Filed deft. Irving Trust memo in support of motion for final judgment.	
Feb. 19-74	Filed pltffs'(Sonali,et ano) interrogatories.	
Feb. 25-74	Filed memorandum--The Court having made two separate memorandum endorsements, dated 2-13-74--On said endorsements the words "So Ordered" are modified to delete such words, and to substitute Settle a single final order on notice with original and three additional copies to be filed with the Court, entering final judgment as requested in the aforesaid motions of Irving Trust only--Brieant,J.	
Mar. 5-74	Filed answers to deft.Cosmic to interrogs.	
Mar. 11-74	Filed order dismissing action as to Irving Trust Co., and Irving be discharged from any and all liability with respect to the trust receipts & drafts, that each of the parties and any other claimants of the aforesaid trust receipts and drafts or of the proceeds therefrom are permanently enjoined from instituting or prosecuting any action against Irving in any other Court relating in any way to either the said trust receipts & drafts,etc.--Brieant, Judgment entered--Clerk--mailed notice. ent. 3-13-74	
Sep.17-74	Filed pltffs interrog.pursuant to Rule 33.	
Sep.30-74	Filed pltffs answers to interrogs on behalf of Nat'l Bank of P. & Nishat Jute Mills by Sonali Bank & N. Jute Mills.	
Dec 11-74	Filed Post-Trial Memo. on behalf of Bangladesh Pltffs.	
Dec 13-74	Filed Post-Trial Memo. of Nishat Jute Mill Ltd. etc.	
Jan 14-75	Filed Bangladesh Pltffs' reply to points of Pakistan Pltff.(Memorandum	
Jan 15-75	Filed Reply Memo. of Nishat Jute Mills Ltd and Nation Bk. of Pakistan.	
4-2-75	Filed Suppl. Stip. subject to all pertinent objections as to relevancy.	
4-2-75	Filed Stip. as to relevancy.	

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		AMOUNT REPORTED
4-2-75	Filed Memorandum Decision#42155....National Bank of Pakistan is entitled to recover the sum of $97,043.50, plus interest at 6%, computed from 2-27-73, the date filing of thestwo actions. United bank Ltd. is entitled to recover the sum of $433,365.96, plus interest at 6%, computed from 12-14-72, the date of the earlier of the two suits. Settle final judgment on notice...Briesant, J. mn	
11-75	Filed Pltffs' Notice of Mtion for an order staying enforcement of any judg. to be entered until 30 days after the entry of such judg.....ret. 4-21-75...at 9:30am Rm 519.	
11-75	Filed Pltffs' Memo of Law in support of Motion 1fow to stay entry of judg.	
18-75	Filed Deft. Irving Trust Co. Affdvt. by Theodore M. Weitz in connection with the motions of Sonali Bank and Nishat Jute Mills Ltd., Pltffs.	
23-75	Recieved Ck. No.00269720 in the amount of $130,278.90 from Irving Trust Co and Deposited same in Reg. of Court.....BW(cashier Dept.) ent. on Consent Order of 5-23-75)	
1-75	Filed Stip. & Order that out of the moneys to paid to Attys for Cosmic Internation, (Burlingham, Underwood & Lord) the sum of $5,510. which sum represents interest fro date of payment on the drafts which are the subject of this litigation to 2-27-73, the date of filing of this complt, will be set aside and held by Burlingham, Underwood & Lord until the issue of pre-litigation interst is finally determined on appeal, and will be paid by said firm in accordance with the decision of the Court....The Nationa Bk of Pakistan will open an account in its N.Y. Branch in the sum of $109,628.07 joinlty in the names of parties listed.....The parties agree to join in a request for a consolidated appeal to be taken in the case of United Bank Ltd Vs Cosmic Internateranl, Inc and to seek an expedited scheduling for the briefing and hearing of that joint appeal....Breiant,J.	
5-1-75	Filed Consent Judgment Ordered that this Court's orders dated 5-9- & 5-23-73 be vacated as of 4-23-75, and the surety on the attachemt bond is discharged fromm all liability, and that upon the entry of thejudgment herein the Clerk of this Court shall pay certainamounts to National Bank of Pakistan and shall pay the balance of proceeds to Burlingham, Underwood & Lord.....and that Cosmic Interhernatial Inc. & Irving Trust Co. are hereby discharged from any and all liability with respect to the subject matter of this litigation and that Nation Bank of Pakstan and Nishat Jute Mills, Ltd., Pltffs. in 73 Civ 2736, recover the costs of action from Sonali Bank and Nishat Jute Mills,Ltd Pltffs. in 73 Civ 858...Briesant,J. mn..... ....Judgment Entered 5-2-75 Clerk (...) ent 5-6-75.	
6-75	Filed Pltffs in Action #1 Notide of Appeal to USCA from Final Judgment ent 5-2-75.... ....Copies Mailed on 5-7-75 to:Wintrhrop, Stimson, Putnam & Roberts,Esqs. & Burlingham, Underwood & Lord, Esqs & Olwine, Connelly, Chase,O'Donnell & Weyher, Esqs.,	

continue Page#4

SONALI BANK ET ANO VS IRVING TRUST CO. ET AL 73 Civ 858 CLB

DATE	PROCEEDINGS
5-9-75	Recived Ck. #5896 for $20,650.83...by:Burlingham Underwood & Lord. per Alexander S
5-9-75	Recieved Ck.#5895 for $109,628.07... by: Olwine, Connelly, Chase, O'Donnell & Weyh
	by:By:Arthur Colyar.
5-21-75	Filed Notice to Docket Ck that the record has been dertified and transmitted to usca on 5-21-75.
5-30-75	Filed Cross Notice of Appeal by Pltffs (in 73 C 2736) from final judg. ent. on 5-2-75....Copies mailed on 6-3-75 to:Nierenberg, Zeif & Weinstein; Wintrhop,Stimson, Putnam & Rober; Burlingham, Underwood & Lord;
6-4-75	Filed Stip. & Order that the supersedesa bond to be filed by Sonal & Nishat Jute Mills for their appeal to USCA is fixed in the sum $1,500.....Brieant,J.
6-10-75	Filed Notice to Docket Clerk that the record has been certified and transmitted to USCA on 6-9--75.
6-11-75	Filed Supersedeas bond in the amount of $1,500 Bond#J 88 74 139 by...Fidelity & Deposit Co. of Maryland.

DOCKET ENTRIES - NISHAT JUTE MILLS, LTD. NATIONAL BANK OF PAKISTAN V. COSMIC INTERNATIONAL, INC.

3-73-action consolidated with 73 Civ. 868 for all purposes--Bryant,J.

CIVIL DOCKET

UNITED STATES DISTRICT COURT

Jury demand date:

D. C. Form No. 106 Rev.

73 CIV. 2736

TITLE OF CASE

NISHAT JUTE MILLS,LTD.,
NATIONAL BANK OF PAKISTAN(added 7-18-73)
AGAINST
COSMIC INTERNATIONAL ,INC.,

ATTORNEYS

For plaintiff:
Olwine,Connelly,Chase,O'Donnell and Weyher
299 Park Avenue
N.Y.,N.Y., 10017
688-0400

For defendant:
Burlingham Underwood & Lord
25 Broadway,NYC-10004 - 422-7585

STATISTICAL RECORD	COSTS		DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed X	Clerk		6/20/73	Olwine	N/F	
			6/21/73	LCT	—	N —
J.S. 6 mailed /	Marshal		5/6/75	Mujahang	5-	
			5/8/75	Record		5-
Basis of Action: Breach of contract,recover fees for goods$97,042.50	Docket fee					
	Witness fees					
Action arose at:	Depositions					

73 - 398

DATE	PROCEEDINGS
5-27-75	Filed Judgment that this Court's orders dated 12-8-75, Mar 9 and May 23,73 be vacated as of 5-16-75, and that upon the maturity on 5-28-75 of the 6 month certificate of deposit in the principal amount of $119,836.39 held by Irving Trust Co in the name of "Comic International, Inc. Trust account for Principals", subject to attachment by Unitedbank Ltd, and Court Orders of 12-8-72,Mar 9 and May 23, 73 " Irving Trust Co shall pay to United Bank Ltd. the sum of $100,000.00...and shall pay the balance of the proceeds of that certificate of deposit($19,127.00 to Burlingham, Underwood & Lord as atty's for Comic International, and that United Bak Ltd. (plaff in 72 C 5009)recover its costs of action from Peoris Bank and Asia Jute Mills Ltd.(Plaffs in 73-351) and that Irving Trust Co and Comic International Inc. hereby discharged from all and any liability with respect to the subject matter of this litigation...Brieant,J.....Judgment Entered 5-27-75(Clerk (Fld in 72C5009) ent 5-28-75.
5-29-75	Filed Peoris Bank and Asia Jute Mills, plaffs, in action #2 notice of Appeal to U.S. Ct. of Appeals from final judg. entered on 5-27-75...Copies mailed on 6-3-75 to: Carter, Ledyard & Milburn, Esqs.,Burlingham, Underwood & Lord Esqs., Watkins, Gleason, Putnam & Roberts, (Fld in 72 C 5009)
6-13-75	Filed mandate of Second Circuit that the record has been certified and transmitted to this on 6-13-75.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED BANK LIMITED,

Plaintiff,

-against-

COSMIC INTERNATIONAL, INC.,

Defendant.

JANATA BANK and AMIN JUTE MILLS, LTD.,

Plaintiffs,

-against-

COSMIC INTERNATIONAL, INC. and IRVING TRUST COMPANY,

Defendants.

SONALI BANK and NISHAT JUTE MILLS,LTD.,

Plaintiffs,

-against-

IRVING TRUST COMPANY and COSMIC INTERNATIONAL, INC.,

Defendants.

NISHAT JUTE MILLS, LTD. and NATIONAL BANK OF PAKISTAN,

Plaintiffs,

-against-

COSMIC INTERNATIONAL, INC.,

Defendant.

APR 2 1975
S.D. OF N.Y.

#42156

~~73 Civ. 3209 CLB~~

~~73 Civ. 393-CLB~~

MEMORANDUM DECISION

~~73 Civ. 850 CLB~~

Filed in
73 Civ. 2736-CLP

Brieant, J.

With the consent of counsel, these cases were tried jointly before me on October 21, 1974. Two stipulations of fact dated June 27, 1974 and October 18, 1974 and a supplemental stipulation, also dated October 18, 1974, have been received. The facts recited below are taken from the stipulations unless otherwise indicated.

This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332(a). Plaintiffs in each case are aliens. The litigation is in the nature of an interpleader action, the stakeholder being Cosmic International, Inc., formerly known as "Pak-Am, Inc.", a Delaware corporation with its principal place of business in New York City ("Cosmic"). Cosmic holds the proceeds of sales to it of jute products made in and shipped from East Pakistan and received in the United States by Cosmic in 1971. Before payment was made by Cosmic, East Pakistan declared its independence from Pakistan and became Bangladesh, which has been recognized as an independent nation by the United States.

Nishat Jute Mills, Ltd., National Bank of Pakistan, Amin Jute Mills, Ltd. and United Bank Limited (the "Pakistani

plaintiffs") contend the funds should be paid to them because the goods were delivered, and the right to receive payment arose in the United States, before Bangladesh achieved independence from Pakistan and before its new government nationalized banks and jute mills and confiscated all property in Bangladesh belonging to Pakistani citizens. In addition, they claim these choses in action had no situs in Bangladesh.

Sonali Bank, Nishat Jute Mills, Ltd., Janata Bank and Amin Jute Mills, Ltd. (the "Bangladesh plaintiffs") claim the funds as successors to the Pakistani plaintiffs' property and assets under various Bangladesh naticnalization orders. According to the Bangladesh plaintiffs, this Court must give effect to the nationalization orders under the act of state doctrine. The classic statement of that doctrine is found in Underhill v. Hernandez, 168 U.S. 250 (1897):

> "Every sovereign state is bound to respect the independence of every other sovereign state, and the courts of one country will not sit in judgment on the acts of the government of another done within its own territory." (Emphasis added)

Courts in the United States, both state and federal, may not inquire into the legality of the taking of property

without compensation of Pakistan's citizens by the Bangladesh government if that property was in Bangladesh, and under the control of the Bangladesh government at the time of the taking. This is so even if such expropriations violated international law.

Events in East Pakistan

A "Proclamation of Independence" was issued in India on April 10, 1971 declaring that East Pakistan became the sovereign state of Bangladesh on March 26, 1971. The revolution began in the Spring of 1971, but most of East Pakistan continued under the control of Pakistan until Pakistani troops surrendered on December 16, 1971.

On February 28, 1972, the new government issued the "Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972", which decreed that all property owned by citizens of a state at war with Bangladesh after March 25, 1971 (i.e., Pakistan) was vested in the government of Bangladesh. There was no provision for compensation.

On March 26, 1972, the "Bangladesh Banks (Nationalisation)

Order, 1972" and the "Bangladesh Industrial Enterprises (Nationalisation) Order, 1972" declared all shares of banks and industrial companies which had not already vested in the government under any other law immediately vested in the government as sole shareholder. Compensation was limited to the paid-up value of the shares. No compensation has been paid pursuant to these orders.

Transactions Between Cosmic and Nishat

Nishat Jute Mills, Ltd., incorporated under the laws of Pakistan in 1955 ("Nishat"), operated a mill for the manufacture of jute products in East Pakistan until the mill was nationalized in 1972. A new government-owned enterprise, Bangladesh Jute Mills Corporation, took over ownership and management of the mill.

From 1967 through 1970, Cosmic sold jute carpet backing for Nishat as its exclusive sales agent in the United States and Canada. After September 1970, Cosmic purchased carpet backing pursuant to individual purchase orders. This action concerns shipments of jute carpet backing loaded aboard five vessels at Chittagong, East Pakistan, between July 23, 1971 and November 1,

1971. All of the goods, bills of lading and related documents arrived in the United States before December 16, 1971, and the merchandise was resold before that date. Between September 7, 1971 and December 3, 1971, Cosmic accepted drafts drawn on it by Nishat, obligating it to pay $97,043.50 for the five shipments. Payment was to be made in New York City between March and May, 1972, to Irving Trust Company, acting as agent for Nishat's bank, National Bank of Pakistan ("National Bank"). The money was to be credited to National Bank's head office in Karachi, Pakistan, with notice to its Dacca, East Pakistan branch office, the branch with which Nishat dealt.

At the time of these transactions, Nishat was indebted to National Bank in an amount exceeding $97,043.50. Had Cosmic paid National Bank, its Dacca office would have credited Nishat's account, reducing Nishat's indebtedness by the full amount received.

Because of the intervening events in East Pakistan and the conflicting claims of the Pakistani plaintiffs and the Bangladesh plaintiffs, Cosmic did not make payment, although it admits the debt.[1/]

Transactions Between Cosmic and Amin

Amin Jute Mills, Ltd. ("Amin") was incorporated under the laws of Pakistan in 1953. It had a branch office in Karachi, Pakistan, with its principal office and its only jute mill in Chittagong, East Pakistan. All shares of stock and property of Amin located in East Pakistan when the new goverrment came into power are now vested in Bangladesh Jute Mills Corporation.

This action concerns jute and hessian cloth purchased by Cosmic from Amin for a total of $433,365.96. The goods, bills of lading and related documents arrived in the United States before December 16, 1971, and the shipments were resold by Cosmic before that date.

Irving Trust Company, acting as Trustee pursuant to seven Trust Receipts dated August 11, 1971 through December 3, 1971, was to collect the purchase price in New York City and remit it to the Karachi, Pakistan, office of United Bank Limited ("United Bank"), and notify United Bank's branch at Chittagong, East Pakistan, the branch with which Amin dealt.

At the time of these transactions, Amin was indebted

to United Bank in an amount in excess of $433,365.96. According to the agreement between United Bank and Amin, these funds could be paid over to Amin or used to reduce Amin's indebtedness to the Bank, as the Bank chose.[2/]

Cosmic was to make payment to Irving Trust Company between February and June, 1972. Again, because of the events in East Pakistan and the claims being made by the respective plaintiffs, Cosmic did not pay, but admits the debt.[3/]

From the foregoing facts, it is clear the sales transactions were complete and all that remained was the right to receive payment, which was to be made in New York City. This right existed before December 16, 1971, the date the new Bangladesh government gained control of East Pakistan. The act of state doctrine is inapplicable because the situs of the debts was New York at the time the Bangladesh government attempted to seize them.

The Supreme Court has stated that [Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398, 428 (1963)]:

> "There are few if any issues in international law today on which opinion seems to be so divided as the limitations on a state's power to expropriate the property of aliens."

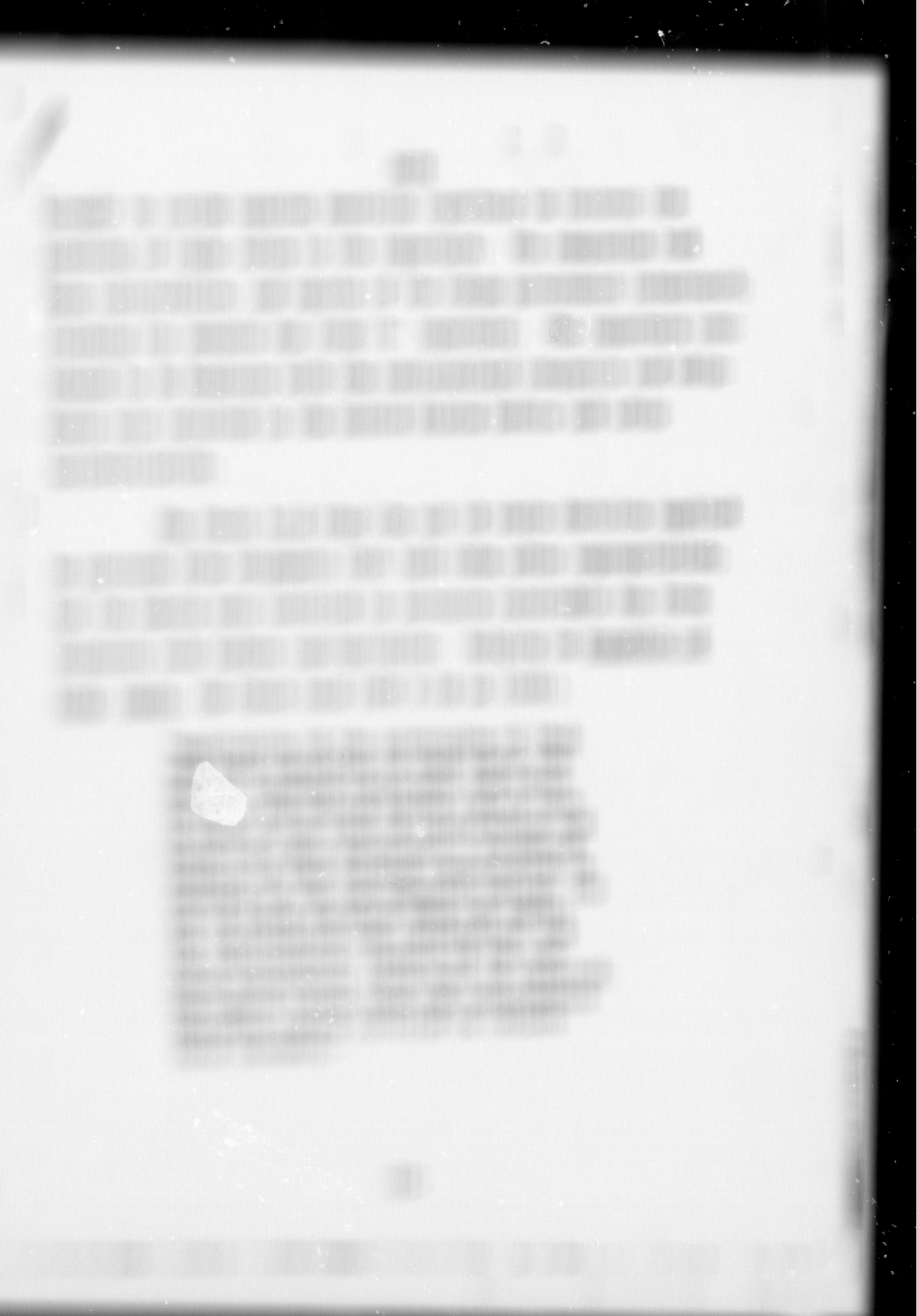
But the Supreme Court treated that issue as irrelevant, holding [Banco Nacional, supra, at 431]:

> "The act of state doctrine is applicable even if international law has been violated."

There is no question that such an expropriation is "offensive to the public policy of this country and its constituent States." Banco Nacional, supra, at 436. New York courts are in accord on this point; see Perutz v. Bohemian Discount Bank in Liquidation, 304 N.Y. 533 (1953); Vladikavkazsky Ry. Co. v. New York Trust Co., 263 N.Y. 369 (1934); Gonzales v. Industrial Bank (of Cuba), 12 N.Y.2d 33, 234 N.Y.S.2d 210 (1962).

Of the many cases in which the act of state doctrine has been discussed since Hernandez, supra, two from our Court of Appeals bear directly on the issues presented here: Republic of Iraq v. First National City Bank, 353 F.2d 47 (2d Cir. 1965), cert. denied 382 U.S. 1027; and Menendez v. Saks and Company, 485 F.2d 1355 (2d Cir. 1973), cert. granted sub nom. Alfred Dunhill of London, Inc. v. Republic of Cuba, 94 S.Ct. 2382, 40 L.Ed.2d 758.

Republic of Iraq, supra, was a suit brought by the government of Iraq to recover money deposits and stock held by



"(1) As soon as may be after commencement of this Ordinance, there shall be constituted a bank to be called the National Bank of Pakistan.

(2) The Bank shall be a body corporate having perpetual succession and a common seal, and shall by the said name sue and be sued." (Emphasis added)

The Ordinance provides for one Central Board, having the power to "make bye-laws not inconsistent with this Ordinance" (§33(1)). Among the bye-laws the Central Board is empowered to make are bye-laws providing for (§33(2)(xxviii)):

"the establishment and discontinuance of branches and agencies in Pakistan or elsewhere and the nature and extent of the business any branch or agency may transact."

The authority of the East Pakistan branches was centralized by National Bank the day after Bangladesh troops gained control of the territory. National Bank of Pakistan continues in business and has a branch office in New York. Certainly no branch can be autonomous if its very existence depends on an order of the Central Board [illegible]. Its loans to higher [illegible] were approved by the Central Board. The profits and losses of all branches were pooled to determine the profit or loss of the Bank itself. The Bank issues a consolidated Annual Report and

dividends were declared by the Central Board. Mr. Hossain, who was legal advisor to National Bank of Pakistan by appointment of its Central Board, testified:

> "Q You do draw a distinction between the National Bank of Pakistan and the National Bank of Pakistan Dacca?
>
> A No ... up to 16 of December, '71 ... there was only one bank called the National Bank of Pakistan ... the statute says that is body corporate ...." (Tr. pp.67-68).

The Court finds that the East Pakistan offices of National Bank of Pakistan were in fact branch offices, and therefore the debt owed to the Bank by Nishat was an account receivable of the Bank itself, not of the branch office in Dacca.

United Bank Limited was incorporated under the general corporation law of Pakistan, the Companies Act of 1913, with its principal place of business and registered office in Karachi, Pakistan. On or about December 16, 1971, United Bank cancelled all authority of its branch offices in East Pakistan.

Haider Mota, Esq., called by United Bank as an expert witness on the law of Pakistan, testified that under the Companies Act and controlling decisions construing the English statute upon

which the Companies Act was based, "branches are merely agencies of the corporate body." (Tr. p.83). This uncontradicted interpretation of the law of Pakistan is accepted by the Court.

The testimony of Mr. Amir A. Siddique, Vice President of United Bank, on behalf of United Bank, and of Mr. Kazi Abdul Mazid, formerly employed by United Bank as manager of a number of its East Pakistan branches, on behalf of Janata Bank, his present employer, shows there is no basis whatever in fact or law for the claim that United Bank's branches were separate entities.

The original loan to Amin was approved by United Bank's head office in Karachi (Tr. p.11). Further advances were approved by the head office (Tr. p.120). Reports of operations were submitted by each branch to the head office (Tr. p.122), which prepared a consolidated balance sheet for the Bank and all its branches and declared dividends (Tr. p.135). United Bank continues to honor obligations incurred by its East Pakistan branches to parties outside Bangladesh (Tr. p.135).

Mr. Mazid's assertions that "the branches had independent working, independent books, independent" and that "the

anches ... had the authority to transact and approve an action and it was not necessary to obtain sanction from Head Office" (Tr. pp.21-22) are totally unworthy of belief, particularly since Mr. Mazid's power was so limited that he had to obtain approval from the head office to reimburse himself for travel expenses in the amount of 50 rupees ($12.00) (Tr. pp.37-38).

The Court finds that the East Pakistan offices of United Bank were branch offices of that Bank having no separate existence of their own and no right independent of United Bank to claim the funds held by Cosmic.

The Bangladesh plaintiffs' second contention is that because Cosmic would be subject to the jurisdiction of the courts of Bangladesh if a suit had been brought there to recover Cosmic's debt, the situs of the debt is Bangladesh, the act of state doctrine applies, and the debt belongs to them.

For this proposition, the Bangladesh plaintiffs rely on the following dicta in Menendez, supra:

> "For purposes of the act of state doctrine, a debt is not 'located' within a foreign state unless that state has the power to enforce or collect it." 485 F.2d at 1364

> "In the absence of any showing that the importers or their agents were present in Cuba or subject to the jurisdiction of Cuban courts at the time of the intervention ... no legal effect should be accorded to Cuba's purported confiscation." 485 F.2d at 1365.

The facts in Menendez do not differ in any significant way from the facts of this case; the principles are the same whether Cuba or Bangladesh is the confiscating country. In Menendez, the Court specifically held that the situs of the debt is where the debtor may be found (485 F.2d at 1365), and the Court did not indicate that its decision would have been different or in what way it would have been different if the importers had been subject to the jurisdiction of the Cuban courts.

We do not believe that by these isolated statements, the Court intended to overturn a rule firmly embedded in American jurisprudence at least since Harris v. Balk, 198 U.S. 215 (1904). We reject the suggestion that, based on speculation about the result in a case that might have been brought in Bangladesh but was not, this Court should take a position at odds with long-established American precedent.

Furthermore, it is by no means clear that Cosmic would be subject to the jurisdiction of the courts of Bangladesh. As might be expected in any case of this nature, the legal experts are divided according to their political loyalties. Litigants in the courts of the United States should not be subjected to such vagaries. The act of state doctrine is the equivalent in international law of the "political question doctrine", and was devised to prevent intrusion by our courts into the political affairs of foreign countries. When property is located in the United States, the only law that can be applied with any certainty, and the law the Supreme Court has directed must be applied, is our own. To hold otherwise would, as held in Menendez v. Faber, Coe & Gregg, Inc., 345 F.Supp. 527 545 (1972):

> "extend the act of state doctrine to unprecedented lengths. It would render nugatory the sound principle that our courts will not give extra-territorial effect to a confiscatory decree of a foreign state and thereby emasculate the public policy of the forum against confiscation."

The third argument is that (Post-Trial Memorandum on behalf of Bangladesh Plaintiffs, pp 48-49):

> "The goods in question ... were all manufactured in the territory of Bangladesh. These goods were the product of the sweat and toil of Bengali workers.
>
> * * *
>
> From time immemorial, the population of that region has been subject to various catastrophes, ranging from flood to tidal waves. In addition, this population has been exploited economically by those who have previously ruled the area from afar. These exploited peoples have now obtained their own independence to end this exploitation.
>
> Bangladesh continues to be subject to various catastrophes. In fact the lives of the Bengalis continue from catastrophe to daily calamity. ... [T]his Court should not deprive these oppressed peoples of the fruits of their land and the products of their toil."

In no sense do we depreciate the difficulties of emerging nations in these parlous times. However, we must be guided by neutral principles of law applied to these facts. This Court cannot act as an almoner with the funds of others, nor overlook "the policy of the United States ... that there is no such thing as a 'good' confiscation by legislative or executive decree." Republic of Iraq, supra, at 52.

Under the act of state doctrine as it has been applied by the Supreme Court since Hernandez, supra, was decided in 1897,

National Bank of Pakistan is entitled to recover the sum of $97,043.50, plus interest at six percent (6%), computed from February 27, 1973, the date of filing of the earlier of the two actions. United Bank Limited is entitled to recover the sum of $433,365.96, plus interest at six percent (6%), computed from December 14, 1972, the date of filing of the earlier of the two suits.

Settle final judgment on notice.

Dated: New York, New York
March 31, 1975

CHARLES L. BRIEANT, JR.
U. S. D. J.

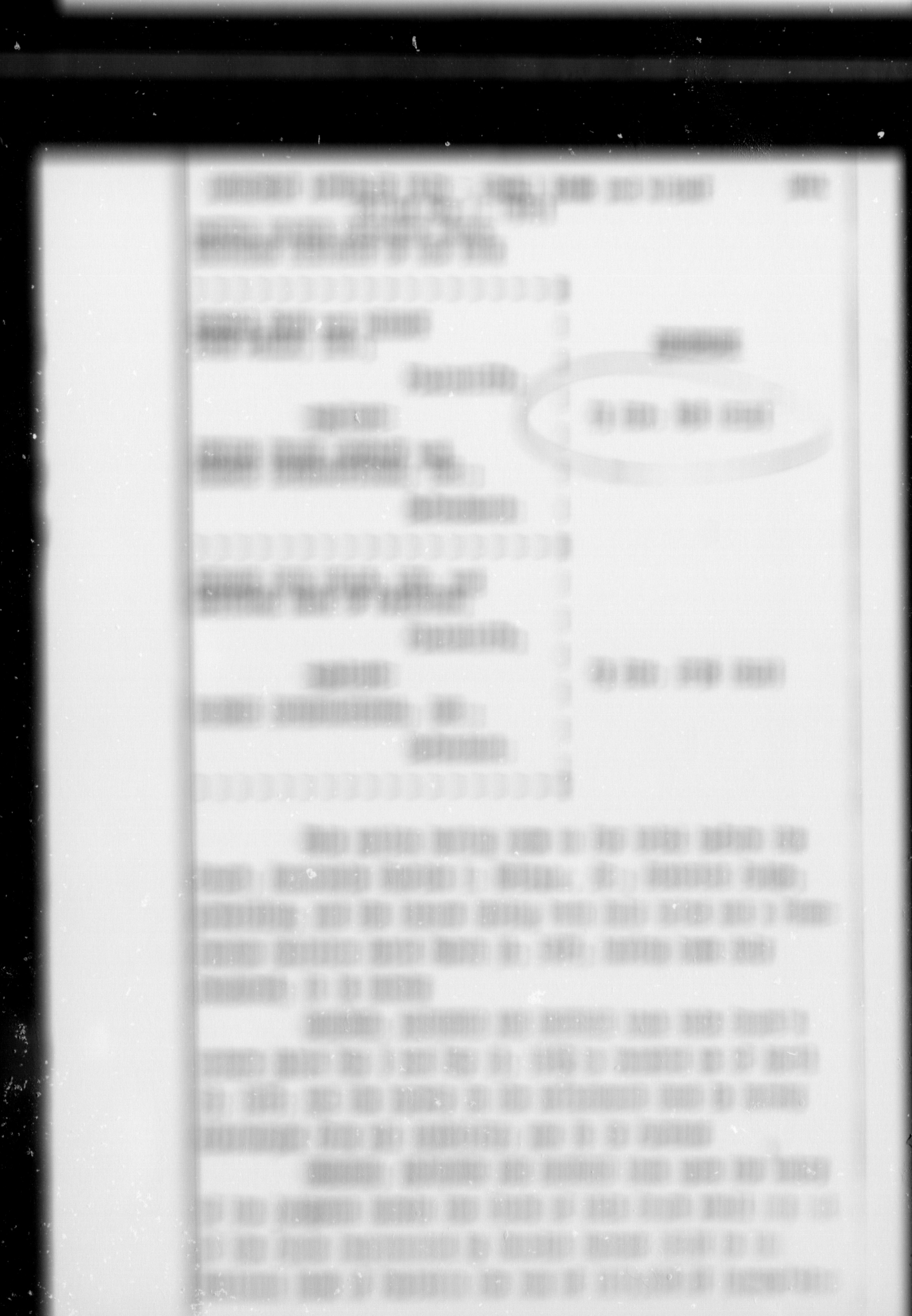
FOOTNOTES

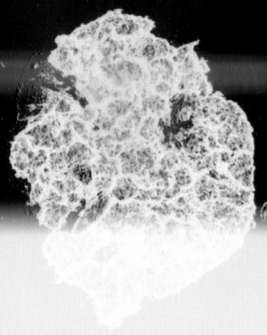
1. A sum in excess of $97,043.50, representing the proceeds of the sight drafts with interest, is presently deposited with Irving Trust Company, subject to attachment by Sonali Bank and Nishat Jute Mills, pursuant to orders of this Court dated May 9 and May 23, 1972.

2. In an effort to obviate any difficulty that might result from this arrangement, Amin executed an Assignment dated May 22, 1973 to United Bank of any interest it might have in these funds. The Bangladesh plaintiffs question the authority of Amin's present shareholders and Board to act on its behalf. The stipulation entered into by the parties shows, however, that Amin is a viable Pakistani corporation and that even at the time its assets in East Pakistan were expropriated, most of its shareholders, a majority of its shares, as well as a majority of its Board, were in Pakistan. We have been cited to no authority from either nation for the proposition that the Bangladesh orders nationalizing Amin's property and shares in East Pakistan extinguished the Pakistan corporation or affected its ability to transact business in Pakistan.

3. The sum of $499,348.83, representing the proceeds of these sales with interest, is presently deposited with Irving Trust Company, subject to attachment by United Bank Limited pursuant to orders of this Court dated December 8, 1972, March 9 and May 23, 1973.

4. See, e.g., Banco Nacional de Cuba v. Sabbatino, 376 U.S, 398 (1964); First National City Bank v. Banco Nacional de Cuba, 406 U.S. 759 (1972); Tabacalera Severiano Jorge, S.A. v. Standard Cigar Co., 392 F.2d 706 (5th Cir. 1968), cert. denied 393 U.S. 924.





[redacted]

3. Janata Bank is a banking company created by JA67 the order of March 26 1972 entitled "Bangladesh Banks (Nationalization) Order, 1972" (Exhibit 1 hereto) with its principal place of business in Bangladesh.

4. Cosmic International, Inc. is a corporation organized and existing under the laws of the State of Delaware. It was formerly known as Pak-Am, Inc. During the times relevant to this litigation, Cosmic had its principal office at 555 Fifth Avenue, New York, N.Y. Cosmic presently has its principal office in the State of Georgia.

AMIN JUTE MILLS LTD.

5. Amin Jute Mills Ltd. is a limited company which was incorporated under the federal law of Pakistan (the "Companies Act") on May 28 1953. It has at all times had its registered office in Chittagong (within the territory now known as Bangladesh) and a branch office in Karachi (within the territory still known as Pakistan). A large majority of its shares was held by persons who were at all times citizens and residents of what is still Pakistan. Most of the balance of its shares was held by persons whose addresses appeared on the company's records as being in what is now Bangladesh, but who are now citizens and residents of Pakistan. The remainder of its shares was owned by present citizens of Bangladesh.

The law of Pakistan required a corporation to file a list of the names and addresses of its directors with the appropriate authorities and to notify the

authorities of any changes in that list. The last list filed by Amin Jute Mills Ltd., dated May 13 1970, gives residence addresses of five of nine directors as being in the area now known as Bangladesh and the addresses of four directors as being in the area still known as Pakistan.

Only one of those nine directors of Amin Jute Mills Ltd. is a present citizen of Bangladesh. At least seven of the nine have been citizens and residents of what is still Pakistan since before December 3 1971.

[word "only" is subject to check]

Amin Jute Mills Ltd. owned and operated its only mill at Chittagong, East Pakistan (now Bangladesh) which produced the goods involved in this action. All of the shareholdings of Amin Jute Mills Ltd. which were subject to the jurisdiction of the Government of Bangladesh on March 26 1972 have been vested in the Government of Bangladesh and control of the management has been vested in a new corporation, Bangladesh Jute Mills Corporation, see paragraph 19 hereunder.

The remainder of the business and affairs of Amin Jute Mills Ltd. in Pakistan is under the control of its directors* there. The position of Amin Jute Mills Ltd. as represented by its directors in Pakistan is that United Bank Limited, Karachi was and is entitled to the proceeds of the sale of the jute, independently of the assignment it executed, a copy of which is annexed hereto as Exhibit 19.

* Plaintiffs in 73 Civ. 393 contest the authority of this board of directors to act.

6. Cosmic has not had any office or assets in the territory now known as the People's Republic of Bangladesh at any time on or after March 26 1971. Prior to the creation of the People's Republic of Bangladesh, Cosmic imported jute from Gulahmed Jute Mills, Hafis Jute Mills and R.R. Jute Mills, all of which are located, wholly or partly, in what was then East Pakistan. Both prior to and after the creation of Bangladesh, Cosmic imported jute from Platinum Jute Mills, Bawany Jute Mills, Taj Jute Mills, Anowara Jute Mills and Nishat Jute Mills, all of which are located, wholly or partly, in the territory now known as Bangladesh. Subsequent to the creation of Bangladesh, Cosmic imported jute from Nowapara Jute Mills and Bawa Jute Mills, both of which are, wholly or partly, located in that country. All of the shareholdings of the foregoing Mills which were subject to the jurisdiction of Bangladesh on March 26 1972, have been vested in the Government of Bangladesh and control of the management has been vested in a new corporation, Bangladesh Jute Mills Corporation, cf. paragraph 19 hereunder. During the period of approximately May 30 1971 to June 16 1971, Mr. S.D. Koen, Cosmic's president, was present in the territory now know as Bangladesh to expedite the shipment of jute carpet backing orders previously placed with mills in that region. From approximately March 1 1972 to March 31 1972, Mr. Joel M. Allen, then a vice president of Cosmic, was present in Bangladesh to familiarize Cosmic with the current status of

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* Plaintiffs in 73 Civ. 393 contend that because of the continuing purchases of jute by Cosmic from jute mills in Bangladesh f.o.b. Chittagong or Chalna (ports in Bangladesh) Cosmic may have had property interests in the jute on the piers of those ports.

the jute carpet backing industry in the area and to expedite the processing and shipment by the new mill management and the Government of orders previously placed by Cosmic.

THE EXPORT TRANSACTIONS IN QUESTION

7. Subsequent to March 26 1971, but prior to December 16 1971, UBL* had allowed cash credit facilities to Amin Jute Mills Ltd., secured by a lien on Amin's raw jute, finished goods, stock in process, raw jute and finished goods in transit, and general stores lying in the godowns of Amin at Chittagong. At all times relevant hereto, the amount of Amin Jute Mills Ltd.'s indebtedness to UBL* far exceeded the total sums in issue in these cases.

8. In seven transactions, Amin Jute Mills Ltd. exported various quantities of jute and hessian cloth (specified hereafter), manufactured by it in the territory now known as Bangladesh, to the United States of America, where it was sold to Cosmic International, Inc. as importer for a purchase price which was to be remitted pursuant to the Trust Receipts of which true copies are annexed hereto as Exhibits 2 through 8.

9. The above transactions were seven in number, involved a total of 136 rolls of jute and 1,252 rolls of hessian cloth at a total price of $433,365.96 (U.S. Dollars).

* Plaintiff in 72 Civ. 5209 contends that United Bank Limited was the banking corporation identified in Par. 1 above, acting through its branch office in Chittagong. Plaintiffs in 73 Civ. 393 contend the Chittagong branch made the advances independently and had its own right to their repayment.

10. As agent pursuant to the Trust Receipts, Irving Trust Company delivered the jute or hessian cloth with documents of lading to Cosmic International, Inc. (formerly known as "Pak-Am Inc.") against Cosmic's promise to pay the purchase price thereof to Irving as such agent.

11. The dates of execution of the Trust Receipts, merchandise, and purchase prices involved in the transactions described above (and reflected in the Trust Receipts attached hereto as Exhibits 2 through 8) are:

Date of Execution of Trust Receipt	Merchandise	Price (U.S. Dollars)
August 11 1971	136 rolls of jute	$ 37,702.42
August 13 1971	396 rolls of hessian cloth	120,036.58
August 19 1971	112 rolls of hessian cloth	29,223.40
September 14 1971	40 rolls of hessian cloth	14,441.90
October 28 1971	535 rolls of hessian cloth	171,093.01
November 4 1971	111 rolls of hessian cloth	37,884.22
December 3 1971	58 rolls of hessian cloth	22,984.43

12. All of the merchandise, bills of lading and documents mentioned above arrived in the United States of America subsequent to March 26 1971, but prior to December 16 1971, and prior to its arrival had been resold by Cosmic International, Inc. to purchasers in the United States of America.

13. In normal course of business as established prior to UBL's loss of control* of the Chittagong branch, Irving Trust Company would have remitted (pursuant to the Trust Receipts, Exhibits 2 through 8, and Letters of Transmittal, Exhibits 12 through 18 annexed hereto) the purchase price to the McLeod Road office of UBL in Karachi, Pakistan (the only UBL office where the foreign currency accounts

*The extent of control is an issue to be determined in this case.

with different correspondents were maintained) with a copy of the credit advice to UBL's* Chittagong branch*. Upon receipt of the funds, UBL* had the option of (1) remitting the funds to Amin Jute Mills Ltd., or (2) retaining the funds for its own use and reducing Amin Jute Mills Ltd.'s indebtedness to it accordingly.

EVENTS IN BANGLADESH

14. The Bangladesh Gazette of May 23 1972 (a true copy of which is annexed hereto as Exhibit 9) published "The Proclamation of Independence", which it stated had been proclaimed and issued in Mujibhagar on April 10 1971, which among other things (1) declared and instituted Bangladesh to be a sovereign People's Republic, (2) confirmed a declaration of independence previously made by Banga Bandhu Shiekh Mujibur Rahman, and (3) resolved that this "Proclamation of Independence" shall be deemed to have come into effect from the 26th day of March 1971.

15. On December 16 1971, Pakistani troops in what is now the People's Republic of Bangladesh surrendered. Except for intervals irrelevant for the purposes of this case, UBL retained effective control+ over its Chittagong branch until December 3 1971, when communications were disrupted.

16. On or about December 16 1971, UBL advised all of its correspondent banks by cable that it had cancelled all authority of the Chittagong branch. By letter

* Plaintiff in 72 Civ. 5209 contends that United Bank Limited was the banking corporation identified in Par. 1 above, acting through its branch office in Chittagong. Plaintiffs in 73 Civ. 393 contend the Chittagong branch made the advances independently and had its own right to their repayment.

+ The extent of control is an issue to be determined in this case.

dated January 2 1972, UBL advised all banks in the world that it had cancelled all authority of the Chittagong branch.

17. By the February 28 1972 "Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972", a true copy of which is annexed hereto as Exhibit 10, the Government of the People's Republic of Bangladesh ordered that all property owned by citizens of a state which was at war with the People's Republic of Bangladesh (namely, Pakistan) at any time after March 25 1971 was "abandoned property", to be vested in the Bangladesh Government, which should have power to administer, control, manage and dispose of it, by transfer or otherwise. No provision was made for payment of compensation to any previous owner of such "abandoned property", and paragraph 24 of the February 28 1972 Order provided:

> "Anything done, any action taken or any order passed under this Order shall not be called in question in any Court."

18. By the March 26 1972 "Bangladesh Banks (Nationalisation) Order, 1972", a true copy of which is annexed hereto as Exhibit 1, the Government of the People's Republic of Bangladesh ordered that all assets, rights, powers, authorities, privileges and property, books and records, liabilities and obligations of UBL in Bangladesh* immediately before the commencement of the Order were at once transferred to and vested in Janata Bank, a new bank which was created by that Order and whose entire capital was vested in the Bangladesh Government.

* Plaintiffs in 73 Civ. 393 claim that the assets transferred to Janata Bank include assets both inside and outside of the territory of Bangladesh.

Paragraph 8 of the Order provided:

> "8. (1) The Government shall give compensation to each existing bank for acquisition of such of its undertaking as has not already vested in Government by or under any law, and such compensation shall be distributed among the shareholders of the existing bank in the manner prescribed by rules made under this Order:
>
> Provided that the total compensation payable to an existing bank under this clause shall not exceed the total paid up value of the shares held by the shareholders, among whom such compensation is to be distributed.
>
> (2) The compensation payable under clause (1) shall be determined and paid in such form and manner as may be prescribed by rules made under this Order."

No further rules have been made under that Order regarding the payment of compensation.

Paragraph 30 of the Order provided:

> "30. If any difficulty arises in giving effect to the provisions of this Order, the Government may make such Order, not inconsistent with the provisions of this Order, as may appear to it to be necessary for the purpose of removing the difficulty."

19. By the March 26 1972 "Bangladesh Industrial Enterprises (Nationalisation) Order, 1972", a true copy of which is annexed hereto as Exhibit 11, the Government of the People's Republic of Bangladesh ordered that all the shares of Amin Jute Mills Ltd. which had not already vested in the Government under any other law then in force were at once vested in the Government as sole shareholder, and its business, affairs and corporate powers were transferred to Bangladesh Jute Mills Corporation, a new corporation which was created by that Order and whose authorized

share capital was to be subscribed by the Government in the manner determined by the Government.

Paragraph 9 of the Order provided:

> "9. The Government shall pay in respect of the shares vested in the Government under Article 4 such compensation as may be determined by it:
>
> Provided that such compensation shall not exceed the paid-up value of such shares."

No compensation has in fact been paid under the Order.

RECOGNITION BY UNITED STATES GOVERNMENT

20. On or about April 4 1972, the Government of the United States of America first recognized the Government of the People's Republic of Bangladesh. The parties are free to argue the legal effect or effects (if any) of that recognition. Until the date of this stipulation there were no trade relations between the Governments or citizens of the Republic of Pakistan and the People's Republic of Bangladesh.

NON-PAYMENT

21. No part of the amounts owing under the Trust Receipts has been paid by Cosmic International, Inc. although payment thereof has been duly demanded.

22. The sum of $499,348.83 (U.S. Dollars), representing the proceeds of the Trust Receipts together with certain accrued interest, is presently invested in a six-month certificate of deposit issued by Irving in the

name of "Cosmic International, Inc. Trust Account for principals No. 1, Subject to Attachment by United Bank Limited and Court Orders of December 8, 1972, March 9, and May 23, 1973".

CONSTITUTIONAL PROVISIONS

23. Article 42 of the Constitution of the People's Republic of Bangladesh provides:

> "42. (1) Subject to any restriction imposed by law, every citizen shall have the right to acquire, hold, transfer or otherwise dispose of property, and no property shall be compulsorily acquired, nationalized or requisitioned, save by authority of law.
>
> (2) A law made under clause (1) shall provide for the acquisition, nationalization or requisition with or without compensation, and in a case where it provides for compensation, shall fix the amount or specify the principle on which, and the manner in which, the compensation is to be assessed and paid; but no such law shall be called in question in any court, on the ground that it does not provide for compensation or that any provision in respect of such compensation is not adequate."

24. Article 24 of the Constitution of the Islamic Republic of Pakistan provides inter alia:

> "24. (1) No person shall be deprived of his property save in accordance with law.
>
> (2) No property shall be compulsorily acquired or taken possession of, save for public purpose, and save by the authority of law which provides for compensation therefor and either fixed the amount of compensation or specifies the principles on and the manner in which the compensation is to be determined and given.

* * *

(4) The adequacy or otherwise of any compensation provided for by any such law as is referred to in this Article, or determined in pursuance thereof, shall not be called in question in any court."

Dated: New York, New York
June 27 1974

CARTER, LEDYARD & MILBURN
Attorneys for United Bank Limited

By _____
(A Member Thereof)

NIERENBERG, ZEIF & WEINSTEIN
Attorneys for Janata Bank and Amin Jute Mills Ltd.

By _____
(A Member Thereof)

EXHIBITS ANNEXED TO FOREGOING STIPULATION OF FACTS -
UNITED BANK LIMITED

EXHIBIT 1 - THE BANGLADESH BANKS (NATIONALISATION) ORDER 1972

[*Published in the Bangladesh Gazette, Extraordinary, Part IIIA, dated the 26th March, 1972*]

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 286-Pub.—26th March, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 26th March, 1972, is hereby published for general information :—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 26 of 1972.

THE BANGLADESH BANKS (NATIONALISATION) ORDER, 1972.

WHEREAS it is expedient to provide for the taking over of the undertaking of certain banks in Bangladesh and for matters connected therewith or incidental thereto;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Banks (Nationalisation) Order, 1972.

Price : 0·35 Paisa.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

2. In this Order, unless there is anything repugnant in the subject or context,—

(a) "Bangladesh Bank" means the Bangladesh Bank established by the Bangladesh Bank (Temporary) Order, 1971 (A. P. O. No. 2 of 1971);

(b) "Board" means the Board of Directors of a new bank;

(c) "Chairman" means the Chairman of the Board;

(d) "Director" means a Director of a new bank;

(e) "existing bank" means a bank specified in column 1 of the Schedule;

(f) "Government" means the Government of the People's Republic of Bangladesh;

(g) "Managing Director" means the Managing Director of a new bank;

(h) "new bank" means a bank specified in column 2 of the Schedule;

(i) "prescribed" means prescribed by rules or regulations made under this Order;

(j) "Schedule" means the Schedule to this Order,

3. The provisions of this Order and any rule or regulation made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

4. (1) On the commencement of this Order, there shall be constituted such new banks as are specified in column 2 of the Schedule.

(2) Every new bank shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Order, to acquire, hold and dispose of property, and to contract, and may sue and be sued in its name.

(3) Notwithstanding anything contained in this Order, every new bank may, until the 30th day of April, 1972, or until such time as the Government may, by notification in the official Gazette, fix, whichever is earlier, use the name and seal of the existing bank concerned.

(4) The head office of every new bank shall be at Dacca.

5. (1) The authorised capital of every new bank shall be such as is specified against each such bank in column 3 of the Schedule and the subscribed capital of the bank shall be such as is specified in column 4 thereof which shall be subscribed for by the Government in such form and manner as may be prescribed.

(2) The entire capital of each new bank shall stand vested in, and allotted to, the Government.

6. On the commencement of this Order, the undertaking of every existing bank shall be transferred to and shall vest in, the new bank specified against such bank in column 2 of the Schedule.

7. (*1*) The undertaking of each existing bank shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were immediately before the commencement of this Order in the ownership, possession, power or control of the existing bank in relation to the undertaking within the territory of Bangladesh or in relation to the business of such undertaking outside Bangladesh, and all books of accounts, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the existing bank in relation to the undertaking within the territory of Bangladesh.

(*2*) If, according to the laws of any country outside Bangladesh, the provisions of this Order by themselves are not effective to transfer or vest any asset situated in that country which forms part of the undertaking of an existing bank to, or in, the corresponding new bank, the affairs of the existing bank in relation to such asset shall, on and from the commencement of this Order, stand entrusted to the chief executive officer for the time being, of the new bank concerned, and the chief executive officer may exercise all powers and do all such acts and things as may be exercised or done by the existing bank for the purpose of effectively transferring such assets.

(*3*) The chief executive officer of the corresponding new bank shall, in exercise of the powers conferred on him by clause (*2*), take all such steps as may be required by the laws of any such country outside Bangladesh for the purpose of effecting such transfer or vesting, and may either himself or through any person authorised by him in this behalf realise any asset of the existing bank.

(*4*) Unless otherwise expressly provided by this Order, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the commencement of this Order and to which the existing bank is a party or which are in favour of the existing bank shall be of as full force and effect against or in favour of the corresponding new bank, and may be enforced or acted upon as fully and effectually as if in the place of the existing bank the corresponding new bank had been a party thereto or as if they had been issued in favour of the corresponding new bank.

(*5*) If any suit, appeal or other proceeding of whatever nature in relation to any business of the undertaking which has been transferred under Article 6 is pending by or against the existing bank, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the existing bank or of anything contained in this Order but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the corresponding new bank.

8. (*1*) The Government shall give compensation to each existing bank for acquisition of such of its undertaking as has not already vested in Government by or under any law, and such compensation shall be distributed among the shareholders of the existing bank in the manner prescribed by rules made under this Order:

Provided that the total compensation payable to an existing bank under this clause shall not exceed the total paid up value of the shares held by the shareholders, among whom such compensation is to be distributed.

(2) The compensation payable under clause (1) shall be determined and paid in such form and manner as may be prescribed by rules made under this Order.

9. (1) The general superintendence, direction and management of the affairs and business of a new bank shall vest in a Board of Directors which shall be entitled to exercise all such powers and do all such acts and things as the new bank is authorised to exercise and do.

(2) Until the first Board of Directors is appointed by the Government under Article 10, the general superintendence, direction and management of the affairs and business of the new bank shall vest in the Managing Director appointed under Article 11 who may exercise all powers and do all acts and things as may be exercised or done by the new bank.

10. The Board shall consist of the Managing Director, who shall be the Chairman of the Board, and six Directors to be appointed by the Government, at least three of whom shall be from amongst persons who, in the opinion of the Government, have had experience and shown capacity in the field of finance, banking, trade, commerce, industry or agriculture.

11. (1) The Managing Director shall be appointed by the Government for such period and on such terms and conditions as the Government may determine.

(2) The Managing Director shall—

(a) be a whole-time officer and the chief executive of the bank;

(b) exercise such powers, perform such functions and discharge such duties as may be entrusted by the Government or as may be prescribed or as may be assigned by the Board from time to time.

12. A Director, other than the Managing Director, shall hold office for a term of three years and shall be eligible for re-appointment:

Provided that the authority which appointed or nominated a Director may remove him from office and appoint in his stead another person to fill the vacancy.

13. No person shall be, or shall continue to be a Director who—

(a) is or at any time has been convicted of an offence which, in the opinion of the Government, is an offence involving moral turpitude; or

(b) is a minor;

(c) is found to be a lunatic or of unsound mind;

(d) is or at any time has been adjudicated insolvent; or

(e) absents himself from three consecutive meetings of the Board without leave of absence granted by the Chairman or, in the case of the Chairman, by the Government.

14. (1) If a Director becomes subject to any of the disqualifications specified in Article 13, he shall be deemed to have vacated his office as such and thereupon his office shall become vacant.

(2) A Director may resign his office by giving notice thereof in writing to the Government and on such resignation being accepted by the Government shall be deemed to have vacated his office.

(3) Where any vacancy occurs in the office of a Director, it shall be filled in accordance with Article 10.

15. A Director, other than the Managing Director, shall be paid such fees for attending the meetings of the Board or of any committee of the Board as may be prescribed by regulation.

16. The Board may constitute from amongst its Directors such committees as it may deem necessary to assist it in the discharge of its functions.

17. (1) The meetings of the Board shall be held at such times and at such places as may be prescribed by regulations:

Provided that a meeting may also be otherwise convened by the Chairman when he so thinks fit and shall be convened if two or more Directors so request in writing addressed to the Chairman:

Provided further that a meeting of the Board shall be held at least once in every three months.

(2) To constitute a quorum at a meeting of the Board not less than three Directors shall be present.

(3) At a meeting of the Board each Director shall have one vote, and in the event of equality of votes the Chairman shall have a second or casting vote.

(4) No Director shall vote on any matter in which he is directly or indirectly interested.

(5) If for any reason the Chairman is unable to be present at a meeting of the Board, a Director authorised in writing by the Chairman shall preside at the meeting.

18. Every Director shall, before entering upon his office, make a declaration of fidelity and secrecy in such form as may be prescribed.

19. (1) All acts done by the Managing Director of any new bank, acting in good faith, shall, notwithstanding any defect in his appointment or in the procedure, be valid.

(2) No act or proceeding of any Board shall be invalid merely on the ground of the existence of any vacancy in, or defect in, the constitution of such Board.

(3) All acts done by a person acting in good faith as a Director of any new bank shall be valid, notwithstanding that it may afterwards be discovered that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision contained in any law for the time being in force :

Provided that nothing in this Article shall be deemed to give validity to any act by a Director after his appointment has been shown to be invalid or to have terminated.

20. (1) The Managing Director and every officer or other employee of any new bank shall be indemnified by such bank against all losses and expenses incurred by him in or in relation to the discharge of his duties except such as have been caused by his own wilful act or default.

(2) A Director of any new bank shall not be responsible for any loss or expense caused to such bank by the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of such bank, or by the insolvency or wrongful act of any customer or debtor, or by anything done in or in relation to the execution of the duties of his office, unless such loss, expense, insufficiency or deficiency was due to any wilful act or default on the part of such Director.

21. (1) Every new bank shall carry on and transact all kinds of banking business.

(2) Without prejudice to the generality of the foreging provision, every new bank may, in particular, carry on and transact the following kinds of business, namely:—

(*a*) advancing and lending of money, and opening of cash credits upon the security of—

(*i*) stocks, funds and securities in which a trustee is authorised to invest trust money by any law for the time being in force;

(*ii*) debentures or other securities for money issued under the authority of any law for the time being in force or under the authority of the Government;

(*iii*) goods which, or the documents of title to which, are deposited with, or assigned to, the bank as security for such advances, loans or credits;

(*iv*) debentures of companies with limited liability, subject to such directions as may be issued by the Board;

(*v*) shares of companies with limited liability, in accordance with such directions in this regard as may be issued from time to time by the Bangladesh Bank;

(*vi*) goods, including tea crops and raw or finished jute products, which are hypothecated to the bank as security for such advances, loans or credits;

(*vii*) accepted bills of exchange and promissory notes endorsed by the payees;

(*viii*) immovable property or documents of title relating thereto, subject to such directions as may be issued from time to time by the Bangladesh Bank:

Provided that any advances or loans which are guaranteed by the Government may be made without any specified security.

(*b*) selling and realisation of proceeds of sale of any such promissory notes, debentures, stock receipts, bonds, annuities, stocks, shares, securities or goods which, or the documents of title to which, have been deposited with, or pledged, hypothecated, assigned or transferred to, the bank as security for such advances, loans or credits or which are held by the bank or over which the bank is entitled to any lien or charge in respect of any such advance or loan or credit or any debt or claim of the bank, and which have not been redeemed in accordance with the terms and conditions, if any, of such deposits, pledge, hypothecation, assignment or transfer;

(*c*) advancing and lending of money to Courts of Wards upon the security of estates in their charge or under their superintendence and the realisation of such advances or loans and any interest due thereon;

(*d*) issuing of letters of credit;

(*e*) buying and selling of gold and silver whether coined or uncoined;

(*f*) receiving of deposits and keeping cash accounts and accepting of jewelleries, title deeds, and other valuable goods on such terms as may be agreed on;

(*g*) managing, selling and realising of all properties, whether movable or immovable, which may in any way come into the possession of the bank in satisfaction or part satisfaction of any of its claims, and the acquisition and holding of, and generally the dealing with, any right, title or interest in any property, movable or immovable, which may be the bank's security for any advance or loan or may be connected with any such security;

(*h*) transacting of pecuniary agency business on commission and entering into contracts of indemnity, suretyship or guarantee with specific security or otherwise and the underwriting, participation in, and carrying out of the issue of any stocks, shares, debentures and other securities;

(*i*) administration of estates for any purpose whether as an executor, trustee or otherwise and the acting as agent on commission in the transaction of the following kinds of business, namely:—

(*i*) buying, selling, transferring and taking charge of any security or any share in any public company and also receiving the proceeds thereof, whether principal, interest or dividend;

(*ii*) remittance of such proceeds by public or private bills of exchange, payable either in Bangladesh or elsewhere;

(*j*) drawing of bills of exchange and the granting of letters of credit payable out of Bangladesh;

(*k*) buying of bills of exchange payable out of Bangladesh;

(*l*) borrowing of money for the purpose of the bank's business, and the giving of security for money so borrowed by pledging assets or otherwise;

(*m*) paying, receiving, collecting and remitting money, bullion and securities under any agreement with the Bangladesh Bank as its agent on behalf of the Government, or undertaking and transacting any business which the Bangladesh Bank may from time to time entrust to it;

(*n*) establishing and discontinuing of branches and agencies;

(*o*) acquiring, maintaining and transferring of the bank's residential and business premises;

(*p*) taking over of the business, including the capital, assets and liabilities of any other bank, with the sanction of the Government;

(*q*) granting of advances or loans to any other bank for any purpose authorised by the Board;

(*r*) with the previous permission of the Bangladesh Bank:—

(*i*) investing of the funds of the bank in any bank incorporated outside Bangladesh, and

(*ii*) participation in the management and administration of any such bank in which the funds of the bank have been invested; and

(*s*) generally doing of all such matters and things as may be incidental or subsidiary or conducive to the promotion or advancement of the business of the bank, including foreign exchange business.

(*3*) Notwithstanding anything contained in clauses (*1*) and (*2*), the bank may carry on and transact such other business as the Government or the Bangladesh Bank may direct from time to time.

22. (*1*) A new bank shall not transact the following kinds of business, namely:—

(*a*) it shall not make any advance or loan or grant any facility in contravention of any law in force or any instruction of the Bangladesh Bank;

(*b*) it shall not make any unsecured advance or loan to any Director or to any concern in which a Director is interested:

Provided that no facility to any member of the staff shall be denied merely because he is also a Director.

(*2*) Notwithstanding anything contained in clause (*1*), the bank is authorised to grant advances or loans or to make *exgratia* payments, with the prior approval of the Government, to its officers and staff for the purpose of providing amenities and facilities for their betterment

23. (*1*) Every new bank may, subject to any regulation made in this behalf, appoint or employ such persons as it considers necessary for the efficient performance of its functions on such terms and conditions as it may determine.

(*2*) Every officer or other employee of an existing bank shall become, on the commencement of this Order, an officer or other employee, as the case may be, of the new bank concerned and shall hold his office or service in that bank on the same terms and conditions and with the same rights and privileges as to provident fund, gratuity, pension and other matters as were enjoyed by them immediately before such commencement and shall continue to do so unless and until his employment in the new bank is terminated or until his remuneration or terms and conditions are duly altered by the new bank:

Provided that an officer or other employee may, within such time as may be specified by the new bank, exercise his option not to continue in the service of the new bank.

(*3*) Notwithstanding anything contained in any terms and conditions of service or in any award, settlement or agreement for the time being in force, every new bank may, with the prior approval of the Government, alter the remuneration (whether by way or reduction or otherwise) and other terms and conditions of service of any officer or other employee of the bank, and if such

alteration is not acceptable to an officer or other employee, the bank may terminate his employment by giving him compensation equivalent to three months' remuneration in case of a permanent officer or employee and one month's remuneration in case of temporary officer or employee.

Explanation.—The compensation to an officer or other employee under clause (*3*) shall be in addition to any pension, gratuity or other benefit to which the officer or employee may be entitled under the terms and conditions of his service.

(*4*) If any question arises as to whether any person was an officer or other employee of an existing bank or not immediately before commencement of this Order, the question shall be referred to the Government whose decision shall be final and binding on the parties.

(*5*) The transfer of service of any officer or other employee from an existing bank to a new bank shall not entitle any such officer or other employee to any compensation, other than the compensation mentioned in clause (*3*), and no such claim shall be entertained by any Court, tribunal or other authority.

24. (*1*) The accounts of every new bank shall be audited by not less than two auditors, being chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (Ordinance X of 1961), who shall be appointed by the Government for a term not exceeding three years on such remuneration as it may fix.

(*2*) Notwithstanding anything contained in clause (*1*), the Bangladesh Bank may appoint such auditor as it thinks fit to examine and report upon the accounts of any new bank.

(*3*) Every auditor shall be supplied with a copy of the annual balance sheet and statement of profit and loss and he shall examine it with the accounts and vouchers relating thereto, and shall have a list delivered to him of all books kept by the bank, and shall at all reasonable times have access to the books, accounts and other documents of the bank, and may employ accountants or other persons to assist him in the investigation of such accounts, and may, in relation to such accounts, examine any Director or officer of the bank.

(*4*) The auditors shall report to the Government upon the annual balance sheet and accounts, and in their report they shall state whether, in their opinion, the balance sheet is a full and fair balance sheet containing the prescribed particulars and properly drawn up so as to exhibit a true and correct view of the state of the bank's affairs, and in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(*5*) The bank shall, as soon as possible after the end of every financial year, furnish to the Government and the Bangladesh Bank a copy of the audited balance-sheet together with a copy of profit and loss account for the year and a report on the working of the bank during the year, and shall publish the same in such manner as may be prescribed.

25. After making provision for bad and doubtful debts, depreciation of assets and such other matter as may be prescribed, every new bank may, out of its net profits, establish a reserve fund and any surplus remaining thereafter shall be paid to the Government.

26. Any reference to any existing bank in any law, other than this Order, or in any contract or other instrument shall, in so far as it relates to the undertaking which has been transferred by Article 6, be construed as a reference to the corresponding new bank.

27. No provision of law relating to the winding up of companies including banking companies shall apply to any new bank, and the new bank shall not be wound up save by order of the Government and in such manner as it may direct.

28. The Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Order.

29. (*1*) The Board of any new bank may, with the previous approval of the Government, make regulations, not inconsistent with the provisions of this Order and the rules, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provision of this Order.

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(*a*) the calling of the meetings of the Board or of any committee, fees for attending the meetings thereof and the conduct of business thereat;

(*b*) the delegation of powers and functions of the Board to the Managing Director, Director, officer or other employee of the bank;

(*c*) the conditions subject to which the bank may grant loans;

(*d*) the manner of determining the sufficiency of the security for the purpose of business;

(*e*) the manner and conditions subject to which the bank may borrow in foreign currency;

(*f*) the form of returns and statements required to be prepared under this Order;

(*g*) the duties and conduct of advisers, officers, other employees and agents of the bank;

(*h*) the recruitment, remuneration, promotion and other terms and conditions of service of the officers and other employees of the bank;

(*i*) the establishment and maintenance of pension, provident or other fund for the benefit of officers and other employees of the bank including the dependents of such officers and other employees;

(*j*) the provision of a seal of the bank and the manner and effect of its use;

(*k*) the disclosure of interest, direct or indirect, of any Director or any member of a committee in any business concern;

(*l*) taking over the management and control of any industrial or business concern committing a breach of its agreement with the bank;

(*m*) publication of audited balance sheet and profit and loss account;

(*n*) generally for the efficient conduct of the affairs of the bank.

(*3*) All regulations made under this Article shall be published in the official Gazette and shall come into force on such publication.

30. If any difficulty arises in giving effect to the provisions of this Order, the Government may make such Order, not inconsistent with the provisions of this Order, as may appear to it to be necessary for the purpose of removing the difficulty.

31. All laws relating to banker and banking companies shall, subject to such adaptations and modifications as may be made from time to time, shall be applicable to the new banks.

32. (*1*) The existing banks shall stand dissolved in Bangladesh on such date as the Government may, by notification in the official Gazette, appoint.

(*2*) Notwithstanding anything contained in clause (*1*), the Board of Directors, of existing banks if any, shall, on the commencement of this Order, stand dissolved and the Chairman and other directors of such Boards shall cease to function.

THE SCHEDULE

(*See* Articles 4 and 5)

Existing bank.	New bank.	Authorised capital.	Paid up capital.
Column 1	Column 2	Column 3	Column 4
		(*in lakhs of takas*).	
The National Bank of Pakistan The Bank of Bahawalpur Ltd. The Premier Bank Ltd.	সোনালী ব্যাংক Sonali Bank	500	200
The Habib Bank Ltd. The Commerce Bank Ltd.	অগ্রণী ব্যাংক Agrani Bank	500	100
The United Bank Ltd. The Union Bank Ltd.	জনতা ব্যাংক JANATA BANK	500	150
The Muslim Commercial Bank Ltd. The Standard Bank Ltd. The Australasia Bank Ltd.	রূপালী ব্যাংক RUPALI BANK	500	100
The Eastern Mercantile Bank Ltd.	পূবালী ব্যাংক PUBALI BANK	500	100
The Eastern Banking Corporation Ltd.	উত্তরা ব্যাংক UTTARA BANK	500	100

DACCA;
The 26th March, 1972.

A. S. CHOWDHURY
President of the
People's Republic of Bangladesh.

AZIMUDDIN AHMAD
Deputy Secretary.

BGP-11/72 2763G-2M.

EXHIBIT 2 THRU 8 TRUST RECEIPTS ARE OMITTED HERE AND PRINTED HEREIN ATTACHED TO EXHIBIT 19 INFRA AT PAGE JA122

EXHIBIT 9 - THE BANGLADESH GAZETTE OF MAY 23, 1972

Registered No. DA-1.

The Bangladesh Gazette

Extraordinary

Published by Authority

TUESDAY, MAY 23, 1972

PART I—Orders and Notifications by the Government of the People's Republic of Bangladesh, the High Court, Government Treasury, etc.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 429-Pub.—23rd May, 1972—The Proclamation of Independence and the Laws Continuance Enforcement Order as were proclaimed and issued in Mujibnagar on the 10th day of April, 1971, are hereby published for general information:—

THE PROCLAMATION OF INDEPENDENCE

MUJIBNAGAR, BANGLADESH

Dated 10th day of April, 1971.

WHEREAS free elections were held in Bangladesh from 7th December, 1970 to 17th January, 1971, to elect representatives for the purpose of framing a Constitution,

AND

WHEREAS at these elections the people of Bangladesh elected 167 out of 169 representatives belonging to the Awami League,

AND

WHEREAS General Yahya Khan summoned the elected representatives of the people to meet on the 3rd March, 1971, for the purpose of framing a Constitution,

AND

WHEREAS the Assembly so summoned was arbitrarily and illegally postponed for an indefinite period,

AND

WHEREAS instead of fulfilling their promise and while still conferring with the representatives of the people of Bangladesh, Pakistan authorities declared an unjust and treacherous war,

AND

WHEREAS in the facts and circumstances of such treacherous conduct Banga Bandhu Sheikh Mujibur Rahman, the undisputed leader of 75 million of people of Bangladesh, in due fulfilment of the legitimate right of self-determination of the people of Bangladesh, duly made a declaration of independence at Dacca on March 26, 1971, and urged the people of Bangladesh to defend the honour and integrity of Bangladesh,

AND

WHEREAS in the conduct of a ruthless and savage war the Pakistani authorities committed and are still continuously committing numerous acts of genocide and unprecedented tortures, amongst others on the civilian and unarmed people of Bangladesh,

AND

WHEREAS the Pakistan Government by levying an unjust war and committing genocide and by other repressive measures made it impossible for the elected representatives of the people of Bangladesh to meet and frame a Constitution, and give to themselves a Government,

AND

WHEREAS the people of Bangladesh by their heroism, bravery and revolutionary fervour have established effective control over the territories of Bangladesh,

We the elected representatives of the people of Bangladesh, as honour bound by the mandate given to us by the people of Bangladesh whose will is supreme duly constituted ourselves into a Constituent Assembly, and

having held mutual consultations, and

in order to ensure for the people of Bangladesh equality, human dignity and social justice,

declare and constitute Bangladesh to be a sovereign People's Republic and thereby confirm the declaration of independence already made by Banga Bandhu Sheikh Mujibur Rahman, and

do hereby affirm and resolve that till such time as a Constitution is framed, Banga Bandhu Sheikh Mujibur Rahman shall be the President of the Republic and that Syed Nazrul Islam shall be the Vice-President of the Republic, and

that the President shall be the Supreme Commander of all the Armed Forces of the Republic,

shall exercise all the Executive and Legislative powers of the Republic including the power to grant pardon,

shall have the power to appoint a Prime Minister and such other Ministers as he considers necessary,

shall have the power to levy taxes and expend monies,

shall have the power to summon and adjourn the Constituent Assembly, and

do all other things that may be necessary to give to the people of Bangladesh an orderly and just Government.

We the elected representatives of the people of Bangladesh do further resolve that in the event of there being no President or the President being unable to enter upon his office or being unable to exercise his powers due to any reason whatsoever, the Vice-President shall have and exercise all the powers, duties and responsibilities herein conferred on the President,

We further resolve that we undertake to observe and give effect to all duties and obligations that devolve upon us as a member of the family of nations and to abide by the Charter of the United Nations.

We further resolve that this Proclamation of Independence shall be deemed to have come into effect from 26th day of March, 1971.

We further resolve that in order to give effect to this instrument we appoint Prof. Yusuf Ali our duly Constituted potentiary and to give to the President and the Vice-President oaths of office.

PROF. YUSUF ALI

Duly Constituted Potentiary
By and under the authority of the
Constituent Assembly of
Bangladesh.

LAWS CONTINUANCE ENFORCEMENT ORDER

MUJIBNAGAR,
Dated 10th day of April, 1971.

I, Syed Nazrul Islam, the Vice-President and Acting President of Bangladesh, in exercise of the powers conferred on me by the Proclamation of Independence dated tenth day of April, 1971 do hereby order that all laws that were in force in Bangladesh on 25th March, 1971, shall subject to the Proclamation aforesaid continue to be so in force with such consequential changes as may be necessary on account of the creation of the sovereign independent State of Bangladesh formed by the will of the people of Bangladesh and that all government officials—civil, military, judicial and diplomatic who take the oath of allegiance to Bangladesh shall continue in their offices on terms and conditions of service so long enjoyed by them and that all District Judges and District Magistrates, in the territory of Bangladesh and all diplomatic representatives elsewhere shall arrange to administer the oath of allegiance to all government officials within their jurisdiction.

This Order shall be deemed to have come into effect from 26th day of March, 1971.

SYED NAZRUL ISLAM
Acting President.

AZIMUDDIN AHMAD
Deputy Secretary.

Printed and Published by Md. Harmuz Hossain, Officer on Special Duty, Establishment Division, In-charge, Bangladesh Government Press, Dacca.

EXHIBIT 10 - BANGLADESH ABANDONED PROPERTY (CONTROL, MANAGEMENT AND DISPOSAL) ORDER 1972

JA74

Dacca, February 28, 1972.

HANDOUT

The President of the People's Republic of Bangladesh has made the following order :-

PRESIDENT'S ORDER No: 16 of 1972.

THE BANGLADESH ABANDONED PROPERTY (CONTROL, MANAGEMENT AND DISPOSAL) ORDER 1972

WHEREAS it is expedient to make provisions for the control, management and disposal of certain property abandoned by certain persons who are not present in Bangladesh or whose whereabouts are not known or who have ceased to occupy or supervise or manage in person their property, or who are enemy aliens;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, 1971 read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:-

1. (1) This Order may be called the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

2. In this Order, unless there is anything repugnant in the subject or context,

(1) "abandoned property" means any property owned by any person who is not present in Bangladesh or whose whereabouts are not known or who has ceased to occupy, supervise or manage in person his property, including -

(i) any property owned by any person who is a citizen of a State which at any time after the 25th day of March, 1971, was at war with or engaged in military operations against the People's Republic of Bangladesh;

(ii) any property taken over under the Bangladesh (Taking over of Control and Management of Industrial and Commercial Concerns) Order, 1972 (Acting President's Order No: 1 of 1972), but does not include -

(a) any property the owner of which is residing outside Bangladesh for any purpose which, in the opinion of the Government, is not prejudicial to the interest of Bangladesh;

(b) any property which is in the possession or under the control of the Government under any law for the time being in force.

Explanation: "Person who is not present in Bangladesh" includes any body of persons or company constituted or incorporated in the territory or under the laws of a State which at any time after the 25th day of March, 1971, was at war with or engaged in military operations against the People's Republic of Bangladesh;

(2) "Company" includes a banking company and insurance company;

(3) "Government" means the Government of the People's Republic of Bangladesh

(4) "prescribed" means prescribed by any rule, order or direction made or given in pursuance of any of the provisions of this Order;

(5) "property" means property of any kind, movable or immovable and includes any right or interest in such property and any debt or actionable claim, any security or negotiable instrument, any right under a contract and any industrial or commercial undertaking.

Explanation: "Security" includes share, scrip, stock, bond, debenture, debenture stock or other marketable security of a like nature in or of any body corporate and Government security.

3. The provisions of this Order and any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

4. On the commencement of this Order, all abandoned properties in Bangladesh shall vest in the Government and shall be administered, controlled, managed and disposed of, by transfer or otherwise, in accordance with the provisions of this Order.

5. (1) For the purpose of carrying the provisions of this Order into effect, and in particular for the purpose of securing, administration, control, management and disposal, by transfer or otherwise, of abandoned property, the Government may take such measures as it considers necessary or expedient and do all acts and incur all expenses necessary or incidental thereto.

(2) Without prejudice to the generality of the foregoing provisions, the Government may, for the said purposes, -

(a) constitute one or more Boards for such area or areas or for such abandoned property or such class or classes of abandoned properties and in such manner as may be prescribed;

(b) appoint an administrator for any abandoned property on such terms and conditions as may be prescribed;

(c) carry on the business in respect of any abandoned property;

(d) take action for recovering any money in respect of any abandoned property;

(e) make any contract and execute any document in respect of any abandoned property;

.....2

(f) institute, defend or settle any suit or other legal proceeding, refer any dispute to arbitration and compromise any debts, claims or liabilities arising out of or in connection with any abandoned property;

(g) raise on the security of any abandoned property such loans as may be necessary;

(h) pay taxes, duties, cesses and rates to the Government or to any local authority in respect of abandoned property; and

(i) transfer by way of sale, mortgage or lease, or otherwise dispose of, any abandoned property or any easement, interest, profit or right, present or future, arising therefrom or incidental thereto.

6. No person shall, except in accordance with the provisions of this Order or any rules made thereunder, transfer any abandoned property in any manner or create any charge or encumbrance on such property, and any transfer made or charge or encumbrance created in contravention of this Order shall be null and void.

7. (1) Where any abandoned property is not in possession of any person, the Deputy Commissioner or the Sub-Divisional Magistrate shall take possession of the property in such manner as may be prescribed.

(2) Where any abandoned property is in possession of any person, such person shall, within seven days of the commencement of this Order, surrender such property to the Deputy Commissioner or the Sub-Divisional Magistrate.

(3) Where the person in possession of any abandoned property fails to surrender such property as he is required to do under clause (2), the Deputy Commissioner or the Sub-Divisional Magistrate shall serve a notice on him in the prescribed manner requiring him to surrender possession of the property, within seven days of the service of the notice, to the person mentioned in the notice or to show cause against such surrender within the said period and, if he fails to do so, the Deputy Commissioner or the Sub-Divisional Magistrate shall take possession of the property in such manner as may be prescribed.

(4) Where the person on whom a notice is served under clause (3) shows cause, within the period specified in that clause, against the surrender of the abandoned property, the Deputy Commissioner or the Sub-Divisional Magistrate, as the case may be, shall, after making such local enquiry as he may consider necessary and after giving the person an opportunity of being heard, pass such order as he deems fit.

8. (1) Where any abandoned property consists of shares in any company, -

(a) the Government shall be deemed to be the registered holder of such shares and, notwithstanding anything in the memorandum or articles of association of the company or in any agreement or instrument, shall have the same rights in the matter of voting a resolution

for the convening of a meeting or of presenting a petition to the Court under the provision of the Companies Act, 1913 (Act VII of 1913) or under any other law or under the articles of association or in any other matter as the person whose shares have vested in the Government had immediately before such vesting; and

(b) the Government shall have the power to acquire, at its option, all or any portion of the remaining shares in such company in the prescribed manner on such terms as it deems fit.

(2) Where under clause (1) the Government becomes the holder of more than fifty percent of the total number of shares in the company, the Government may, by order in writing, -

(a) dissolve the Board of Directors of the Company;

(b) remove its Managing Director or any other Director;

(c) dissolve its Managing Committee, Executive Committee, Advisory Committee or any other Committee or Board;

(d) remove its General Manager or other Manager;

(e) terminate any Managing Agency Agreement;

(f) remove any of its officers or employees;

(g) constitute any Board or Committee or appoint any person for its administration and management, and

(h) give such directions in respect of its administration and management as it may deem fit.

(3) Notwithstanding anything contained in the memorandum or articles of association of a company, the Government may, in respect of a company mentioned in clause (2), by notification in the official Gazette, do all such things which, but for the power conferred by this clause, would have required the passing of a special or extraordinary resolution by the share-holders.

9. When any property is vested in the Government under this Order, only such liabilities in respect of such property shall be deemed to be the liabilities in respect of the property as may be determined by such authority as in such manner as may be prescribed.

10. (1) The Government may cancel any allotment or terminate any lease or amend the terms of any lease or agreement under which any abandoned property is held, occupied or managed by a person, where such allotment, lease or agreement has been granted or entered into after the 25th day of March, 1971.

(2) Where by reason of any action taken under clause (1) any person has ceased to be entitled to possession of any abandoned property he shall, on demand by the Government, surrender possession of such property to the Government or to any person authorised by it in this behalf.

(3) If any person fails to surrender possession of any property in terms under clause (2), the Government may eject such person and take possession of such property in such manner as may be prescribed.

11. (1) Any amount payable in respect of any abandoned property shall be paid to the Government by the person liable to pay the same.

(2) Any person who makes a payment under clause (1) shall be discharged from further liability to pay to the extent of the payment made.

(3) Any payment made otherwise than in accordance with clause (1) shall not discharge the person paying it from his obligation to pay the amount due, and shall not affect the right of the Government to enforce such obligation against any such person.

12. Where any abandoned property is property in trust for a public purpose of a religious or charitable nature or is a waqf, the property shall remain vested in the Government only until such time as fresh trustees or mutwallis are appointed by Government, and pending the appointment of fresh trustees or mutwallis the property and the income thereof shall be applied by the Government for fulfilling, as far as possible, a charitable purpose.

13. (1) Where any abandoned property consists of shares in a joint property, business or firm, and if the shares vested in the Government constitute the greater part of such joint property, business or firm, reckoned according to the value of the whole, the Government may take possession and assume control and management of the whole of such property, business or firm.

(2) Notwithstanding the provision of clause (1), the Government shall, on an application being made in this behalf by all or any of the persons whose shares have not vested in the Government, partition such property, if capable of being partitioned, and determine the share or shares of such person or persons.

14. (1) Any property vested in the Government under this Order shall be exempt from all legal process, including seizure, distress, ejectment, attachment or sale by any officer of a Court or any other authority, and no injunction or other order of whatever kind in respect of such property shall be granted or made by any Court or any other authority, and the Government shall not be divested or dispossessed of such property by operation of any law for the time being in force.

(2) Any such legal process as aforesaid subsisting immediately before the commencement of this Order shall cease to have effect on such commencement and all abandoned properties in custody of any Court, receiver, guardian or other person or persons appointed by it, shall, upon delivery of the same being called for by the Government, be delivered to the Government.

15. (1) Any person claiming any right or interest in any property treated by Government as abandoned property may make an application to the prescribed authority on the ground that -

(a) the property is not abandoned property; or

(b) his interest in the property has not been affected by the provisions of this Order.

.....6.

(2) An application under clause (1) shall be made within three months of the date of the commencement of this Order.

(3) On receiving an application under clause (2), the authority to which the application is made shall hold a summary inquiry in the prescribed manner and, after taking such evidence as may be produced, shall pass an order, stating the reasons therefor, rejecting the application or allowing it, wholly or in part, on such terms and conditions as it thinks fit to impose.

16. (1) Any person aggrieved by an order passed under Article 7 or Article 15 of this Order may, within one month of such order, file an appeal before such authority as may be prescribed.

(2) The Government may, either of its own motion or on application, at any time, revise any order passed under Article 7 or Article 15 or clause (1) of this Article.

17. (1) Any person who has been in unauthorised possession of any abandoned property shall be liable to pay such compensation for such unauthorised possession as may be assessed by such authority and in such manner as may be prescribed.

(2) Any person who has caused damage to or disposed of the whole or a part of any abandoned property shall be liable to pay such compensation as may be assessed by such authority and in such manner as may be prescribed.

18. (1) The Government shall maintain a separate account of each abandoned property in such manner as may be prescribed and shall cause to be made entries therein of all receipts and expenditures in respect thereof.

(2) The Government shall cause the accounts of the abandoned properties to be inspected and audited in the prescribed manner.

19. Without prejudice to the provisions of Article 17, any person who wilfully causes damage to, or disposes of the whole or a part of, any abandoned property or allow damage to be caused to, or disposal of the whole or a part of, any abandoned property shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

20. Any person who fails to surrender any abandoned property as required under clause (2) or clause (3) of Article 7 or Article 10 shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

21. No provision of law relating to the winding up of companies or banks or business or dissolution of firms shall apply to any company, bank, business or firm vested in the Government as abandoned property under this Order, and such Company, bank, business or firm shall not be wound up or dissolved save by order of the Government and in such manner as it may direct.

22. The Government may, by order published in the official Gazette, direct that any power or duty which is conferred or imposed by this Order upon the Government shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by an officer or authority subordinate

23. No suit, prosecution or other legal proceeding shall lie against the Government or any person for anything which is in good faith done or intended to be done under this Order or the rules made thereunder.

24. Anything done, any action taken or any order passed under this Order shall not be called in question in any Court.

25. The Government may make rules for carrying out the purposes of this Order.

Sd/—
Abu Sayeed Chowdhury
President of the
People's Republic of Bangladesh

Dacca;
The 26th February, 1972.

AK/ALB/GM/
No:566-PID

Extraordinary
Published by Authority

FRIDAY, MARCH 10, 1972

PART 1 - Order and Notifications by the Government of the People's Republic of Bangladesh, the High Court, Government Treasury, etc.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAND REVENUE, LAND RECORDS AND SURVEYS

General Section

NOTIFICATION

No. GE-20/72/247 - General - 9th March 1972 - In exercise of the power conferred by Article 25 of the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (P.O. No. 16 of 1972), the President is pleased to make the following rules, namely:-

THE BANGLADESH ABANDONED PROPERTY (TAKING OVER POSSESSION) RULES? 1972.

1. Short title - These rules may be called the Bangladesh Abandoned Property (Taking over Possession) Rules, 1972.

2. Definitions - In these rules, unless there is anything repugnant in the subject or context, —

(a) "abandoned property" means any abandoned property within the meaning of the Order;

(b) "Article" means an Article of the Order;

(c) "Form" means a form appended to these rules;

(d) "the Order" means the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (P.O. No. 16 of 1972);

(e) "property" means any property within the meaning of the Order.

3. Manner of taking possession of abandoned property under Article 7 -

(1) Where any abandoned property is not in possession of any person or where a person surrenders any abandoned property under clause (2) of Article 7 or in pursuance of a notice under clause (3) or of an order under clause (4) of the said Article, the Deputy Commissioner or the Subdivisional Magistrate shall pass an order in Form No. 1 and depute an officer for taking possession of such property.

(2) The officer so deputed shall affix an authentic copy of such order on the notice board of the office of the local Union Panchayat/Sahar Committee/Paura Sabha and where the property consists of immovable property another copy to some conspicuous part of such property.

(3) The order may, if the Deputy Commissioner or subdivisional Magistrate deem fit, be proclaimed by beat of drum in the locality in which the property is situated.

(4) The officer deputed to take possession shall take such steps as he may consider necessary for securing possession of the property, including breaking open any lock or door, if necessary, and make an inventory in duplicate, containing the full particulars of the property, including machineries installations, fixtures, fittings, stock-in-trade, furniture, equipments, cash, bullions, ornaments, books, documents, papers, house-hold effects, standing crops, trees and all other things found therein.

(5) The inventory so made shall be signed by the officer himself and by two witnesses.

(6) On the completion of these formalities, the possession of the property shall be deemed to have been taken by the Deputy Commissioner or the Subdivisional Magistrate.

(7) The officer shall submit a report to the Deputy Commissioner or the Subdivisional Magistrate about taking possession of the property in the aforesaid manner, along with both copies of the inventory prepared by him.

(8) The notice referred to in clause (3) of Article 7 ... be in Form II and shall be served on the person in possession or on any adult ... member of his family or, where none of them is available or they refuse to receive the notice, by affixing a copy of the notice to a conspicuous part of the residence of such person and also, where the abandoned property consists of any immovable property on a conspicuous part of such immovable property in the presence of two witnesses.

(9) Where the person in possession fails to surrender the abandoned property or to show cause in pursuance of the notice under clause (3) of Article 7 or where he shows cause, but fails to surrender the property in accordance with an order passed under clause (4) of that Article, the Deputy Commissioner or the Subdivisional Magistrate shall pass an order in Form III and depute an officer to take possession of the property, by taking all steps necessary in that behalf, including evicting such person and for such eviction, such force may be used as may be necessary.

(10) The officer so deputed shall also publish the order, enter upon the property and prepare an inventory in the same manner as prescribed in sub-rules (2), (3) and (4).

(11) After eviction and on completion of these formalities, the possession of the property shall be deemed to have been taken by the Deputy Commissioner or the Subdivisional Magistrate.

(12) The officer shall submit a report to the Deputy Commissioner or the Subdivisional Magistrate about taking possession of the property in the aforesaid manner, along with both copies of the inventory prepared by him.

4. Manner of taking possession of abandoned property under clause (3) of Article 10 -

(1) For taking possession of any abandoned property under clause (3) of Article 10, the Deputy Commissioner or the Subdivisional Magistrate, to whom the power of Government has been delegated under Article 22, shall pass an order in Form No. IV and depute an officer to take possession of the property who shall take all necessary steps in that behalf, including eviction of the person in possession and for such eviction, such force may be used as may be necessary.

(2) The officer so deputed shall publish the order, enter upon the property and prepare an inventory in the same manner as prescribed in sub-rules (2), (3) and (4) of rule 3.

(3) After eviction and on completion of those formalities the possession of the property shall be deemed to have been taken by the Deputy Commissioner or the Subdivisional Magistrate.

(4) The officer shall submit a report to the Deputy Commissioner or the Subdivisional Magistrate about taking possession of the property in the aforesaid manner, along with both copies of the inventory prepared by him.

5. Custody of abandoned property - The Deputy Commissioner or the Subdivisional Magistrate shall make proper arrangement for the safe custody and guarding of all abandoned property during the period from the time of taking its possession to the time of making it over to the Ministry concerned under Rule 6 .

6. Report and making over of an abandoned property to the Ministry concerned for control, management and disposal - (1) The Deputy Commissioner or the Subdivisional Magistrate shall submit a report to the Ministry concerned as mentioned below setting out the particulars of the property, possession of which has been taken over by the Deputy Commissioner or the Subdivisional Magistrate:-

	Category of abandoned property	Name of Ministry to whom the property is to be made over.
1.	Agricultural, horticultural and non-agriculatural lands not connected with any commercial or industrial undertaking.	Ministry of Revenue
2.	Residential and other buildings in the urban areas.	Ministry of Works

3.	Shops, godowns and other commercial undertakings with or without stock in trade.	Ministry of Commerce.
4.	Industrial undertakings (including Jute Industry).	Ministry of Industry.
5.	Tea Gardens	Ministry of Commerce.
6.	Trucks, buses and other means of transport	Ministry of Communication.
7.	Negotiable instruments and securities, i.e., shares, scrip, stocks, bonds, debentures, stocks or other marketable securities of a like nature in or of any body corporate and Government security.	Ministry of Commerce.
8.	Goods in transit or at port, railway stations and terminals.	Ministry of Communication.
9.	Cash, ornaments and bullion not connected with any commercial or industrial under-taking	Ministry of Finance.
10.	Any other property not covered by the above classifications	Ministry of Revenue.

(2) An abandoned property taken possession of by the Deputy Commissioner or the Subdivisional Magistrate under the Order, along with a copy of the inventory, shall be made over, under proper receipt, to the Ministry concerned in such manner as is directed by that Ministry for control, management and disposal according to the rules to be framed by such Ministry.

Form I

[See rule 3(1)]

ORDER

Where it appears that the property specified in the schedule below, owned by ....., of ....., P.S. .....district ....., is an abandoned property within the meaning of the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972(P.O. No. 16 of 1972), I hereby order that the possession of the said property shall be taken by (name and designation of the Officer deputed).

Schedule

(Full particulars of the property to be given).

Deputy Commissioner/Subdivisional Magistrate

Date ----------.

Seal.

[See rule 3(8)]

NOTICE

Where it appears that the property specified in the Schedule below, owned by..... of ....., P.S. ..... district....., is an abandoned property within the meaning of the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (P.O. No. 16 of 1972);

And whereas you Mr.....of ..... P.S. ....., district..... are in possession of the said property;

You are hereby directed to surrender possession of the property to (name and designation of the officer) within seven days of the service of the notice or to show cause against such surrander within the said period.

Schedule.

(Full particulars of the property to be given).

Deputy Commissioner/Subdivisional Magistrate

Seal.

Date .....

Form III

[See rule 3(9)]

ORDER

Whereas it appears that the property specified in the Schedule below, owned by..... of ....., P.S. ..... district....., is an abandoned property within the meaning of the Bangladesh Abandoned Property (Control, Management and Disposal) Order 1972 (P.O. No. 16 of 1972);

And whereas you Mr..... of ..... P.S. ....., district ..... are in possession of the said property and have failed to surrender that property or to show cause in pursuance of the notice under clause (3) of Article 7 served on you on..... in accordance with my order passed under clause (4) of Article 7 on.....

I hereby order that you shall be evicted from the said property and the possession of the property shall be taken by (name and designation of the officer deputed).

Schedule

(Full particulars of the property to be given).

Seal.

Deputy Commissioner/Subdivisional Magistrate

Date.....

JA85

Form ..

[See rule 4(1)]

ORDER

Whereas you Mr....., of ..... P.S. ....., district..... have ceased to be entitled to the possession of the abandoned property specified in the Schedule below by reason of my order passed on ..... under clause (1) of Article 10 of the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (P.O. No. 16 of 1972) and have failed to surrender possession of the said property under clause (2) of the said Article on demand;

I hereby order that you shall be evicted from the daid property and the possession of the said property shall be taken by (name and designation of the officer deputed).

Schedule

(Full particulars of the property to be given).

Deputy Commissioner/Subdivisional Magistrate

Date.....

Seal.

By order of the President,

M.A. TAHER
Secretary

Fi:

Registered No. DA-1.

The Bangladesh Gazette

Extraordinary

Published by Authority

SUNDAY, MARCH 26, 1972

PART IIIA—Ordinances and Orders promulgated by the President of the People's Republic of Bangladesh.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 287-Pub.—26th March, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 26th March, 1972, is hereby published for general information :—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 27 of 1972.

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) ORDER, 1972.

WHEREAS it is expedient to provide for the nationalisation of certain industrial enterprises in Bangladesh and for the establishment of corporations for the purpose of co-ordination and supervision of the nationalised industrial enterprises and for matters connected therewith or incidental thereto ;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972,

and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972.

(*2*) It extends to the whole of Bangladesh.

(*3*) It shall come into force at once.

2. In this Order, unless there is anything repugnant in the subject or context,—

(*a*) "Board" means the Board of Directors of a Corporation ;

(*b*) "Chairman" means the Chairman of a Corporation;

(*c*) "Corporation" means a corporation established by this Order;

(*d*) "Director" means a Director of a corporation;

(*e*) "Government" means the Government of the People's Republic of Bangladesh ;

(*f*) "prescribed" means prescribed by rules or regulations made under this Order ;

(*g*) "Scheduled industrial enterprises" means industrial enterprises enumerated in the Schedules to this Order.

3. The provisions of this Order and any rule or regulation made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

4. On the commencement of this Order, all the shares in each of the scheduled industrial enterprises, which have not already vested in the Government by or under any other law for the time being in force, shall, by virtue of this Article and without further assurance, stand vested in, and allotted to, the Government free of any trust, mortgage, charge, lien, interest or other incumbrance whatsoever, and the Government shall, as from such commencement, be the sole share-holder of such industrial enterprises.

5. Notwithstanding anything contained in any memorandum or articles of association of any scheduled industrial enterprises or in any charter, agreement, contract or other instrument whatsoever,—

(a) the Government may, in respect of any scheduled industrial enterprise, take such measures and do such things as it deems necessary or expedient for the purpose of efficient running of such industrial enterprise;

(*b*) dissolve the Board of Directors of such industrial enterprises and appoint new Directors;

(*c*) terminate any managing agency agreement in respect of such industrial enterprise; and

(*d*) modify or amend the memorandum or articles of association or any charter, agreement, contract or instrument of such industrial enterprise.

6. Every provision in any law or in any memorandum or articles of association or any other charter or instrument of any scheduled industrial enterprise providing for any consequence to follow, or requiring any act or thing to be done, or entitling any person to do any act or thing or to take any action whatsoever, as a result of a reduction in the number of the members of such industrial enterprises below a certain number, shall be of no effect in relation to such industrial enterprise.

7. The Government may, by rules, modify in their application to any scheduled industrial enterprise any of the provisions of the Companies Act, 1913 (Act VII of 1913), or of any rules made thereunder.

8. Until the Government otherwise directs,—

(*a*) the Board of Directors of a scheduled industrial enterprise, which was in existence immediately before the commencement of this Order, shall continue to function, as a Board appointed by the Government;

(*b*) the chief executive of a scheduled industrial enterprise shall on behalf of the Government continue to exercise such powers of management in respect of the scheduled industrial enterprise as were vested in him immediately before the commencement of this Order; and

(*c*) all contracts and agreements, including managing agency agreements, and all rules, regulations and bye-laws of any scheduled industrial enterprise, which were in force immediately before the commencement of this Order, shall continue to remain in force.

9. The Governemt shall pay in respect of the shares vested in the Government under Article 4 such compensation as may be determined by it:

Provided that such compensation shall not exceed the paid-up value of such shares.

10. (*1*) On the commencement of this Order, there shall be established the following corporations:

(*a*) Bangladesh Jute Mills Corporation, which shall have and exercise all the powers of a corporation in respect of the industrial enterprises engaged in jute manufacturing enumerated in the First Schedule;

(*b*) Bangladesh Cotton Mills Corporation, which shall have and exercise all the powers of a corporation in respect of all the industrial enterprises engaged in cotton manufacturing enumerated in the Second Schedule;

(*c*) Bangladesh Sugar Mills Corporation, which shall have and exercise all the powers of a corporation in respect of all the sugar mills enterprises enumerated in the Third Schedule;

(*d*) (*i*) Bangladesh Steel Mills Corporation;

(*ii*) Bangladesh Paper and Board Corporation;

(*iii*) Bangladesh Fertiliser, Chemical and Pharmaceutical Corporation;

(*iv*) Bangladesh Engineering and Shipbuilding Corporation;

(*v*) Bangladesh Minerals, Oil and Gas Corporation;

(*vi*) Bangladesh Food and Allied Products Corporation;

(vii) Bangladesh Forest Product Corporation ;

which shall respectively have and exercise the powers of a corporation in respect of such industrial enterprises, including industrial enterprises vested in Government under the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 or owned and managed by a statutory corporation, which the Government may place under it by an order notified in the official Gazette.

(2) Each Corporation shall be a body corporate, having perpetual succession and a common seal with power, subject to the provision of this Order, to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

(3) The head office of each Corporation shall be at Dacca.

11. (1) The general direction and administration of the affairs and business of a corporation shall vest in a Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Corporation.

(2) The Board shall be subject to the superintendence and control of the Government and shall be guided, in the discharge of its functions, by such general or special instruction as may, from time to time, be given to it by the Government.

12. (1) The Board shall consist of a Chairman and such number of other Directors not exceeding six as the Government may fix.

(2) The Chairman and other Directors shall be appointed by the Government for such period and on such terms and conditions as the Government may determine.

(3) The Chairman or any other Director may, at any time, resign :

Provided that his resignation shall not take effect until accepted by the Government.

(4) No act or proceeding of the Board shall be invalid merely on the ground of existence of any vacancy in, or any defect in the constitution of, the Board.

13. (1) The Chairman shall be the chief executive officer of a Corporation.

(2) The Chairman and any other Director shall exercise such powers, perform such functions and discharge such duties as may be prescribed.

14. (1) The meetings of the Board shall be held at such times and places and in such manner as may be prescribed:

Provided that a meeting may also be otherwise convened by the Chairman when he so thinks fit.

(2) If for any reason the Chairman is unable to be present in a meeting of the Board, a Director authorised in writing by the Chairman shall preside at the meeting.

(3) At a meeting of the Board each Director shall have one vote and in the event of equality of votes the Chairman shall have a second or casting vote.

15. (1) The Board may appoint such committee or committees as it thinks fit to assist it in the efficient discharge of its functions.

(2) The Board may delegate its power to the Chairman for the purpose of effiecient functioning of a Corporation.

(3) The Chairman may delegate his powers to the officers of a Corporation.

16. A Corporation may appoint such officers, consultants, advisers, auditors and employees as it considers necessary for the efficient performance of its functions on such terms and conditions as it may determine.

17. (1) It shall be the function of a Corporation to supervise and coordinate, subject to any regulation that may be made in this behalf, the activities, business and affairs of the scheduled industrial enterprises placed under it by Article 10.

(2) Without prejudice to the generality of the foregoing provision, the Corporation shall have to exercise such powers as may be prescribed in respect of the scheduled industrial enterprises.

(3) The Corporation shall, in respect of any scheduled industrial enterprise, also exercise such of the powers of the Government as the Government may by notification in the official Gazette delegate to the Corporation.

18. (1) The authorised share capital of each Corporation shall be one crore of takas each, to be subscribed by the Government, in the manner determined by the Government, from time to time according to the requirements of the Corporation.

(2) The initial share capital shall be five lakhs of taka fully paid up and subscribed by the Government.

19. A Corporation shall by such date in each year as may be prescribed, by rules, submit to the Government for approval a statement, to be called the Annual Budget Statement, in the prescribed from for every financial year showing estimated receipts and expenditure and sums which are likely to be required from the Government during that financial year.

20. (1) A Corporation may spend such sums as it thinks fit on the basis of the Annual Budget Statement approved by the Government under Article 19.

(2) A Corporation may, with the prior approval of the Government, borrow such sums, with or without security, as may be required by it to discharge its functions under this Order.

21. (1) A Corporation shall maintain proper accounts and other relevant records and prepare annual statement of accounts, including a profit and loss account and balance-sheet.

(2) The accounts of a Corporation shall be audited by not less than two accountants, being chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (Ord. X of 1961), who shall be appointed by the Government.

22. (1) A Corporation shall furnish to the Government such returns, reports and statements as the Government may from time to time require.

(2) A Corporation shall, as soon as possible after the end of every financial year, furnish to the Government a statement of accounts audited by the auditors under Article 21 together with an annual report on the conduct of its affairs for that year.

(3) The auditors shall in their report upon the annual balance-sheet and accounts state whether in their opinion the balance-sheet is a full and fair balance-sheet and contains all necessary particulars and is properly drawn up so as to exhibit a true and correct view of the state of affairs of a Corporation, and in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(4) The Government may, at any time, issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by a Corporation for protection of the interest of the Government and creditors or upon the sufficiency of their procedure in auditing the affairs of a Corporation and may, at any time, enlarge or extend the scope of the audit or direct that a different procedure in audit be adopted or that any other examination be made by the auditors if in its opinion the interest of the Government so requires.

(5) The copies of the audited accounts and annual report shall be published in the official Gazette and shall be laid before the Legislature.

23. No provision of law relating to the winding up of companies shall apply to a Corporation and a Corporation shall not be wound up save by order of the Government and in such manner as it may direct.

24. The Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Order.

25. (1) The Board may, with the previous approval of the Government, make regulations, not inconsistent with the provisions of this Order and the rules, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Order.

(2) All regulations made under this Article shall be published in the official Gazette and shall come into force on such publication.

26. The Government may, by order notified in the official Gazette, transfer to a Corporation such portions of the property, assets and liabilities, and such officers and employees of the Bangladesh Industrial Development Corporation as the Government deem fit on terms and conditions to be determined by the Government.

FIRST SCHEDULE

(Industrial enterprises placed under Bangladesh Jute Mills Corporation)

1. Adamjee Jute Mills Ltd.
2. Afil Jute Mills Ltd.
3. Ajax Jute Mills Ltd.

4. A. K. Khan Jute Mills Ltd.
5. Aleem Jute Mills Ltd.
6. Alhaj Jute Mills Ltd.
7. Alijan Jute Mills Ltd.
8. Allied Jute Mills Ltd.
9. Amin Jute Mills Ltd.
10. Anowara Jute Mills Ltd.
11. A. R. Howlader Jute Mills Ltd.
12. Ashraf Jute Mills Ltd.
13. Bawa Jute Mills Ltd.
14. Broad Burlap Industries Ltd.
15. Carpeting Jute Mills Ltd.
16. Chandpur Jute Mills Ltd.
17. Chittagong Jute Mills Ltd.
18. Co-operative Jute Mills Ltd.
19. Crescent Jute Mills Ltd.
20. Delta Jute Mills Ltd.
21. Dacca Jute Mills Ltd.
22. Dawood Jute Mills Ltd.
23. Eastern Jute Mills Ltd.
24. Fauji Chatkal Jute Mills Ltd.
25. Gul Ahmad Jute Mills Ltd.
26. Hafez Jute Mills Ltd.
27. Hamedia Jute Mills Ltd.
28. Hussain Jute Mills Ltd.
29. Jabbar Jute Mills Ltd.
30. Janata Jute Mills Ltd.
31. Jessore Jute Mills Ltd.
32. Karim Jute Mills Ltd.
33. Kohinoor Jute Mills Ltd.
34. Latif Bawany Jute Mills Ltd.
35. Maqbular Rahman Jute Mills Ltd.
36. M. M. Jute Mills Ltd.
37. Mohsen Jute Mills Ltd.
38. Meghna Jute Mills Ltd.
39. Munawar Jute Mills Ltd.
40. National Jute Mills Ltd.
41. Nawab Abdul Malek Jute Mills Ltd.
42. Nawab H. Askari Jute Mills Ltd.
43. Nishat Jute Mills Ltd.
44. New Dacca Industries Ltd.

45. Pak. (Bangladesh) Jute Mills Ltd.
46. Pakistan (Bangladesh) Fabric Co., Ltd.
47. People's Jute Mills Ltd.
48. Pubali Jute Mills Ltd.
49. Purbachal Jute Mills Ltd.
50. R. R. Jute Mills Ltd.
51. Sarwar Jute Mills Ltd.
52. Sattar Jute Mills Ltd.
53. S. K. M. Jute Mills Ltd.
54. Sonali Jute Mills Ltd.
55. Star Jute Mills Ltd.
56. Star Alkaid Jute Mills Ltd.
57. Sultana Jute Mills Ltd.
58. Taj Jute Backing Co., Ltd.
59. United Jule Mills Ltd.
60. Victory Jute Products Ltd.
61. W. Rahman Jute Mills Ltd.
62. Daulatpur Jute Mills Ltd.
63. Mymensingh Jute Mills Ltd.
64. Nabarun Jute Mills Ltd.
65. Platinum Jubilee Jute Mills Ltd.
66. Qaumi Jute Mills Ltd.
67. Mashriqui Jute Mills Ltd.

SECOND SCHEDULE

(Industrial enterprises placed under Bangladesh Cotton Mills Corporation)

1. Adarsha Cotton Spinning and Weaving Mills Ltd.
2. Ahmed Bawany Textile Mills Ltd.
3. Ahmed Silk Mills Ltd.
4. Al-Haj Textile Mills Ltd.
5. Amin Textile Mills Ltd.
6. Ashraf Textile Mills Ltd.
7. Asiatic Cotton Mills Ltd.
8. Bengal Textile Mills Ltd.
9. Bogra Cotton Spinning Co., Ltd.
10. Calico Cotton Mills Ltd.
11. Chand Textile Mills Ltd.
12. Chisty Textile Mills Ltd.
13. Chittagong Textile Mills Ltd.
14. Chittaranjan Cotton Mills Ltd.
15. Cotton Textile Crafts Ltd.

16. Dacca Cotton Mills Ltd.
17. Dacca Dyeing and Manufacturing Co., Ltd.
18. Dhakeswari Cotton Mills Ltd.
19. Dost Textile Mills Ltd.
20. Eagle Star Textile Mills Ltd.
21. Elahi Cotton Mills Ltd.
22. E. P. Textile Mills Ltd.
23. Fine Cotton Mills Ltd.
24. Gawsia Cotton Spinning Mills Ltd.
25. Goalundo Textile Mills Ltd.
26. Habibur Rahman Textile Mills Ltd.
27. Halima Textile Mills Ltd
28. Ibrahim Cotton Mills Ltd.
29. Jaba Textile Mills Ltd.
30. Jalil Textile Mills Ltd.
31. Jess Blanket Manufacturing Co., Ltd.
32. Karilin Silk Mills Ltd.
33. Khulna Textile Mills Ltd.
34. Kohinoor Spinning Mills Ltd.
35. Kokil Textile Mills Ltd.
36. Kushtia Textile Mills Ltd.
37. Lux[illegible] Narayan Cotton Mills Ltd.
38. Mainamati Textile Mills Ltd.
39. Meghna Textile Mills Ltd.
40. Metex Cotton Mills Ltd.
41. Mohini Mills Ltd.
42. Monnoo Textile Mills Ltd.
43. Moula Textile Mills Ltd.
44. Muslin Cotton Mills Ltd.
45. National Cotton Mills Ltd.
46. N. H. Textile Mills Ltd.
47. Olympia Textile Mills Ltd.
48. Orient Textile Mills Ltd.
49. Pahartali Textile Mills Ltd.
50. Paruma Textile Mills Ltd.
51. Pylon Industries Ltd.
52. Quaderia Textile Mills Ltd.
53. Quasem Cotton Mills Ltd
54. Rahman Textile Mills Ltd.
55. Raz Textile Mills Ltd.
56. R. R. Textile Mills Ltd.

57. Rupali Noor Textile Mills Ltd.
58. Rupali Nylon Ltd.
59. Satrang Textile Mills Ltd.
60. Serajganj Spinning and Cotton Mills Ltd.
61. Sharmin Textile Mills Ltd.
62. Tamizuddin Textile Mills Ltd.
63. Tangail Textile Mills Ltd.
64. Zeenat Textile Mills Ltd.

THIRD SCHEDULE

(Industrial enterprises placed under Bangladesh Sugar Mills Corporation)

1. Faridpur Sugar Mills.
2. Jaipurhat Sugar Mills Ltd.
3. Kushtia Sugar Mills Ltd.
4. Kaliachapra Sugar Mills Ltd.
5. Mobarakganj Sugar Mills Ltd.
6. National Sugar Mills Ltd.
7. North Bengal Sugar Mills Ltd.
8. Panchagarh Sugar Mills Ltd.
9. Rajshahi Sugar Mills Ltd.
10. Rangpur Sugar Mills Ltd.
11. Shyampur Sugar Mills Ltd.
12. Setabganj Sugar Mills Ltd.
13. Thakurgaon Sugar Mills Ltd.
14. Zeal Bangla Sugar Mills Ltd.
15. Deshbandhu Sugar Mills Ltd.

DACCA;
The 26th March, 1972.

A. S. CHOWDHURY
President of the People's Republic of Bangladesh.

AZIMUDDIN AHMAD
Deputy Secretary.

Printed and Published by Md. Harmuz Hosain, Officer on Special Duty, Establishment Division, In-charge, Bangladesh Government Press, Dacca.

[*Published in the Bangladesh Gazette, Extraordinary, Part IIIA, dated the 25th April, 1972*]

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 371-Pub—25th April, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 25th day of April, 1972, is hereby published for general information :—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 37 of 1972

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (AMENDMENT) ORDER, 1972.

WHEREAS it is expedient to amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972), for the purposes hereinafter appearing ;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Amendment) Order, 1972.

(*2*) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

Price—0·10 Paisa

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972), Article 23 shall be *re-numbered* as clause (*1*) of that Article, and after clause (*1*) as so *re-renumbered*, the following new clauses shall be *added*, namely:—

"(2) No provision of law relating to the winding up of companies shall apply to any scheduled industrial enterprise and such industrial enterprise shall not be wound up save by order of the Government and in such manner as it may direct.

(3) All proceedings for the winding up of any scheduled industrial enterprise which, immediately before the commencement of this Order, were pending in any court shall, on such commencement, abate."

A. S. CHOWDHURY
President of the
People's Republic of Bangladesh.

DACCA;
The 25th day of April, 1972.

AZIMUDDIN AHMAD
Deputy Secretary.

BGP-71/72-3252G-2M.

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TUESDAY, MAY 23, 1972

PART IIA—Ordinances and Orders promulgated by the President of the People's Republic of Bangladesh.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 430-Pub.—23rd May, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 19th May, 1972, is hereby published for general information:—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 51 of 1972.

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (SECOND AMENDMENT) ORDER, 1972.

WHEREAS it is expedient to amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (President's Order No. 27 of 1972), for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Second Amendment) Order, 1972.

(2) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972),—

(1) in the First Schedule, *after* entry 67, the following new entry shall be *added*, namely:—

"68. Associated Bagging Company Ltd.

69. Gawsia Jute Mills Ltd.

70. Hafiz Textile Mills Ltd.
(Jute Broad Looms Section)

71. Noapara Jute Mills Ltd.

72. Purbapak Jute Mills Ltd.

73. Quasem Jute Mills Ltd.

74. Rajshahi Jute Mills Ltd."; and

(2) in the Third Schedule, *after* entry 15, the following new entry shall be *added*, namely:—

"16. Carew & Company (Bangladesh) Ltd.".

ABU SAYEED CHOWDHURY
President of the
People's Republic of Bangladesh.

DACCA;
The 19th May, 1972.

AZIMUDDIN AHMAD
Deputy Secretary.

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PART IIIA—Ordinances and Orders promulgated by the President of the People's Republic of Bangladesh.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 617 Pub.—2nd August, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 1st August, 1972, is hereby published for general information:—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 87 of 1972

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (THIRD AMENDMENT) ORDER, 1972

WHEREAS it is expedient to amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972), for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Third Amendment) Order, 1972.

(2) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972),—

(1) in the First Schedule, *after* entry 74, the following new entries shall be *added*, namely:—

"75. Transocean Fibre Processors Ltd.

76. Amin Oldfield Ltd." ; and

(2) in the Second Schedule, *after* entry 64, the following new entry shall be *added*, namely:—

"65. Valika Woollen Mills (Chittagong) Ltd.".

ABU SAYEED CHOWDHURY
President of the
People's Republic of Bangladesh.

DACCA;
The 1st August, 1972.

AZIMUDDIN AHMAD
Deputy Secretary.

Printed and Published by Md. Harmuz Hossain, Officer on Special Duty Establishment Division, In-charge, Bangladesh Government Press, Dacca.

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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 787-Pub.—8th September, 1972—The following Order made by the President, on the advice of the Acting Prime Minister, of the People's Republic of Bangladesh on the 7th September, 1972 is hereby published for general information:—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 108 of 1972

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (FOURTH AMENDMENT) ORDER, 1972

WHEREAS it is expedient to amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P.O. No. 27 of 1972) for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Fourth Amendment) Order, 1972.

(*2*) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972), in Article 10, in clause (*1*), in sub-clause (*d*), *after* item No. (*vii*), the following new item and "Semi-colon" shall be *added*, namely:—

"(*viii*) Bangladesh Tanneries Corporation;".

ABU SAYEED CHOWDHURY
President of the
People's Republic of Bangladesh.

DACCA;
The 7th September, 1972.

JUSTICE F.K.M.A. MUNIM
Secretary.

Printed and Published by Md. Harmuz Hossain, Officer on Special Duty, Establishment Division, In-charge, Bangladesh Government Press, Dacca.

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PART IIIA—Ordinances and Orders promulgated by the President of the People's Republic of Bangladesh.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 944-Pub.—1st November, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 1st November, 1972, is hereby published for general information:—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 131 of 1972

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (FIFTH AMENDMENT) ORDER, 1972.

WHEREAS it is expedient to further amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (President's Order No. 27 of 1972), for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Fifth Amendment) Order, 1972.

(2) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972),—

(1) in the preamble, in the first paragraph, for the words "purpose of co-ordination and supervision of the nationalised enterprises" the words and comma "purposes of control, supervision and co-ordination of the nationalised and some other enterprises and for the establishment and development of new industrial enterprises" shall be *substituted*;

(2) in Article 5,—

(i) *for* the words and comma "or other instrument whatsoever," the words and comma "the Government may, in respect of any scheduled industrial enterprise" shall be *inserted*; and

(ii) in entry (*a*), the words and commas "the Government may, in respect of any scheduled industrial enterprises," shall be *omitted*;

(3) in Article 10,—

(*a*) in clause (1), in sub-clause (*b*), *for* the words "Bangladesh Cotton Mills Corporation", the words "Bangladesh Textile Industries Corporation" shall be *substituted*; and

(*b*) in sub-clause (*d*), *after* the words "including industrial enterprises" the words and commas "owned, wholly or partly, by the Government or" shall be *inserted*;

(4) In Article 17,—

(*a*) *for* clause (1) the following shall be *substituted*, namely:—

"(1) It shall be the function of a Corporation to control, supervise and co-ordinate, subject to any regulation made in this behalf the activities, business and affairs of the scheduled industrial enterprises placed under it by clause (1) of Article 10 or, as the case may be, the industrial enterprises placed under it by an order under that clause, and to establish and develop new industrial enterprises within their respective fields.";

(*b*) in clause (2), *after* the words and comma "industrial enterprises," the words and commas "or, as the case may be, the industrial enterprises placed under it" shall be *inserted*; and

(*c*) in clause (3), *after* the words and comma "industrial enterprises," the words and commas "or, as the case may be, the industrial enterprises placed under it," shall be *substituted*; and

(5) in the Second Schedule,—

(*a*) *for* the words "Bangladesh Cotton Mills Corporation" the words "Bangladesh Textile Industries Corporation" shall be *substituted*; and

(*b*) *after* entry 65, the following new entries shall be *added*, namely:—

"66. Afsar Cotton Mills Ltd.

67. Chand Textile (Spinning) Mills Ltd.

68. Zofine Fabrics Limited.

69. Mohammadi Calendering and Printing Mills Ltd.

70. Eastern Textile Mills.

71. Zaritex Ltd.".

ABU SAYEED CHOWDHURY
President of the
People's Republic of Bangladesh.

DACCA;
The 1st November, 1972.

NASIMUDDIN AHMAD
Joint Secretary.

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PART IIIA—Ordinances and Orders promulgated by the President of the People's Republic of Bangladesh.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 906-Pub.—27th November, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh the 26th November, 1972, is hereby published for general information:—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 145 of 1972.

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (SIXTH AMENDMENT) ORDER, 1972.

WHEREAS it is expedient to further amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (President's Order No. 27 of 1972), for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Sixth Amendment) Order, 1972.

(*2*) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972),—

(*1*) in Article 4, *after* the words "scheduled industrial enterprises", the words, commas and figures "or, as the case may be, the industrial enterprises placed under a Corporation by an order under clause (*1*) of Article 10" shall be *inserted*;

(*2*) in Article 5, *for* the first paragraph the following shall be *substituted*, namely:—

"Notwithstanding anything contained in any memorandum or articles of association of any scheduled industrial enterprises or, as the case may be, the industrial enterprises placed under a Corporation by an order under clause (*1*) of Article 10, or in any charter, agreement, contract or other instrument whatsoever, the Government may, in respect of any such industrial enterprise,—"

(*3*) in Article 6, *after* the words "scheduled industrial enterprise", the words, commas and figures "or, as the case may be, the industrial enterprises placed under a Corporation by an order under clause (*1*) of Article 10" shall be *inserted*;

(*4*) in Article 7, *after* the words "scheduled industrial enterprises", the words, commas and figures "or, as the case may be, the industrial enterprises placed under a Corporation by an order under clause (*1*) of Article 10" shall be *inserted*;

(*5*) in Article 8, *after* the words "scheduled industrial enterprise", wherever occurring the words, commas and figures "or, as the case may be, the industrial enterprises placed under a Corporation by an order under clause (*1*) of Article 10" shall be *inserted*;

(*6*) Article 26 shall be re-numbered as clause (*1*) of that Article, and after clause (*1*) as so re-numbered, the following new clause shall be added, namely:—

"(2) The Government may also, by an order, to be notified in the *Official Gazette*, transfer to a Corporation such portion of the property, assets and liabilites and such officers and employees belonging to the Government as it may deem fit on terms and conditions to be determined by the Government.";

(*7*) in the Second Schedule, *after* entry 65, the following new entry shall be added, namely:—

"66. Alauddin and Taiwa Textile Mills Ltd.".

DACCA;
The 26th November, 1972.

ABU SAYEED CHOWDHURY
President of the
People's Republic of Bangladesh.

NASIMUDDIN AHMAD
Joint Secretary.

Printed and Published by A. R. Siddiqui, Special Officer,
Bangladesh Government Press, Dacca.

JA109

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HIGH COURT DACCA

The

Bangladesh Gazette

Extraordinary

Published by Authority

FRIDAY, DECEMBER 15, 1972

PART IIIA—Ordinances and Orders promulgated by the President of the People's Republic of Bangladesh.

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 1042-Pub.—15th December, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 15th December, 1972, is hereby published for general information:—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 153 of 1972

THE BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) (SEVENTH AMENDMENT) ORDER, 1972.

WHEREAS it is expedient to further amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (President's Order No. 27 of 1972), for the purpose hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

1. (*1*) This Order may be called the Bangladesh Industrial Enterprises (Nationalisation) (Seventh Amendment) Order, 1972.

(*2*) It shall come into force at once and shall be deemed to have taken effect on the 26th day of March, 1972.

2. In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972), hereinafter referred to as the said Order, in Article 10, *after* clause (*1*), the following new clause shall be *added*, namely:—

"(*1A*) Notwithstanding anything contained in any other law, an industrial enterprise, placed under any Corporation by an order notified in the official Gazette under sub-clause (*d*) of clause (*1*) of Article 10, and all shares or other proprietory interest in such industrial enterprise shall be deemed to have always vested in the Government and no such order shall be challenged on the ground that the industrial enterprise or the shares or interest therein had not vested in the Government, or that the industrial enterprise, or any share or interest therein, was not liable to be vested in the Government.".

3. In the said Order, in Article 26,—

(*a*) in clause (*1*), the words "notified in the official Gazette" shall be *omitted*;

(*b*) in clause (*2*), the words "to be notified in the official Gazette" shall be *omitted*.

4. In the said Order, in the First Schedule, *after* entry 76, the following new entry shall be *added*, namely:—

"77. Banani Jute Mills Ltd.".

ABU SAYEED CHOWDHURY
President of the
People's Republic of Bangladesh.

DACCA;
The 15th December, 1972.

N. AHMAD
Joint Secretary.

Printed and published by A. R. Siddiqui, Special Officer,
Bangladesh Government Press, Dacca.

32. Amendment of the Second Schedule, P. O. No. 23 of 1973.—In the said Order, in the Second Schedule, in the heading,—

(a) for the word "Animals" the words "Wild animals" shall be substituted; and

(b) for the word "transport" the word "transfer" shall be substituted.

33. Amendment of the Third Schedule, P. O. No. 23 of 1973.—In the said Order, in the Third Schedule,—

(a) in paragraph 1, for the word "Raptiles" the word "reptiles" shall be substituted; and

(b) in paragraph 3, for the word "rouge" the word "rogue" shall be substituted.

ACT NO. XVIII OF 1974

An Act further to amend the Agricultural Income-tax Act, 1944

WHEREAS it is expedient further to amend the Agricultural Income-tax Act, 1944 (Ben. Act IV of 1944), for the purpose hereinafter appearing;

It is thereby enacted as follows :—

1. Short title.—This act may be called the Agricultural Income-tax (Amendment) Act, 1974.

2. Insertion of new section 61B, Ben. Act IV of 1944.—In the Agricultural Income-tax Act, 1944 (Ben. Act IV of 1944), after Section 61A, the following new section shall be inserted, namely —

"61B. *Power to exempt.*—The Government may, by notification in the official Gazette, exempt any person or class of persons from payment of agricultural income-tax or super-tax on agricultural income, or both for any financial year."

ACT NO. XIX OF 1974

An Act further to amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972.

WHEREAS it is expedient further to amend the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P. O. No. 27 of 1972), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Bangladesh Industrial Enterprises (Nationalisation) (Amendment) Act, 1974.

(2) It shall be deemed to have come into force on the 1st day of January, 1974.

2. **Amendment of Article 10, P. O. No. 27 of 1972.**—In the Bangladesh Industrial Enterprises (Nationalisation) Order, 1972 (P.O. No. 27 of 1972), hereinafter referred to as the said Order, in Article 10, in clause (1),—

(a) in sub-clause (a), for the words "Bangladesh Jute Mills Corporation" the words "Bangladesh Jute Industries Corporation" shall be substituted; and

(b) in sub-clause (d), in item (vi), for the words "Bangladesh Food and Allied Products Corporation" the words "Bangladesh Food and Allied Industries Corporation" shall be substituted.

3. **Amendment of the First Schedule, P. O. No. 27 of 1972.**—In the said Order, in the First Schedule,—

(a) in the sub-heading, for the words "Bangladesh Jute Mills Corporation" the words "Bangladesh Jute Industries Corporation" shall be substituted;

(b) after entry 77, the following new entry shall be added, namely:—

"78. M/s. Mills Furnishings Ltd.".

4. **Amendment of the Second Schedule, P. O. No. 27 of 1972.**—In the said Order, in the Second Schedule,—

(a) for entry 5 the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"5. Amin Textiles Limited.";

(b) for entry 27 the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"27. Halima Textiles Limited.";

(c) for entry 40 the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"40. Metex Cotton Limited.";

(d) for entry 43 the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"43. Mowla Textile Mills Limited.";

(e) for entry 49 the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"49. Pahartali Textiles and Hosiery Mills.";

(f) for entry 60 the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"60. Serajganj Spinning and Cotton Mills Limited.";

(g) for entry 63 the following shall be substituted and shall be deemed always to have been so substituted, namely :—

"63. Tangail Cotton Mills Limited.";

(h) the entry 66, as added by Article 2(7) of the Bangladesh Industrial Enterprises (Nationalisation) (Sixth Amendment) Order, 1972 (P. O. No. 145 of 1972), shall be re-numbered as entry 72 and shall be deemed always to have been so re-numbered; and

(i) after entry 72 re-numbered as aforesaid, the following new entry shall be added, namely :—

"73. Royal Textile Industries.".

5. **Amendment of the Third Schedule, P. O. No. 27 of 1972.**—In the said Order, in the Third Schedule, after entry 16, the following new entry shall be added, namely :—

"17. Renwick and Co. Ltd.".

6. **Repeal.**—The Bangladesh Industrial Enterprises (Nationalisation) (Amendment) Ordinance, 1973 (Ord. No. I of 1974), is hereby repealed.

ACT NO. XX OF 1974

An Act further to amend the Bangladesh Banks (Nationalisation) Order, 1972

WHEREAS it is expedient further to amend the Bangladesh Banks (Nationalisation) Order, 1972 (P. O. No. 26 of 1972), for the purpose hereinafter appearing;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Bangladesh Banks (Nationalisation) (Amendment) Act, 1974.

(2) It shall be deemed to have come into force on the 31st day of December, 1973.

2. **Amendment of Article 9, P. O. No. 26 of 1972.**—In the Bangladesh Banks (Nationalisation) Order, 1972 (P. O. No. 26 of 1972), in Article 9, for clause (2) the following shall be substituted, and shall be deemed always to have been so substituted, namely :—

"(2) Until the first Board of Directors is appointed by the Government under Article 10, the Managing Director appointed under Article 11 shall, subject to such general or special orders as the Government may give from time to time, exercise all powers, do all acts and things as may be exercised or done by the Board.".

3. **Repeal.**—The Bangladesh Banks (Nationalisation) (Amendment) Ordinance, 1973 (Ord. XXXIII of 1973), is hereby repealed.

ACT NO. XXI OF 1974

An Act to determine the terms and conditions of service of the members of the public service commissions

WHEREAS it is expedient to determine the terms and conditions of service of the members of the public service commissions;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Members of the Public Service Commissions (Terms and Conditions of Service) Act, 1974.

(2) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "chairman" means the chairman of a commission;

(b) "commission" means a public service commission established by the Bangladesh Public Service Commissions Order, 1973 (P. O. No. 25 of 1973);

(c) "member" means a member of commission.

3. **Salary of chairmen and members.**—There shall be paid to a chairman a salary of Taka 2,000/- per mensem and to every other member a salary of Taka 1,850/- per mensem:

Provided that where a person is, at the time of his appointment as member, in the service of the Republic or of a statutory body or nationalised enterprise, he shall be paid the salary specified in this section or a salary in the scale of pay applicable to the post held by him at the time of his appointment, subject to a maximum of Taka 2,000/- per mensem, whichever is higher:

Provided further that where a person is, at the time of his appointment as chairman or member, a retired servant of the Government or of a statutory body or nationalised enterprise, he shall draw his salary *minus* his gross pension, if any:

Provided further that where a person appointed as chairman or member retires from the service of the Republic or of a statutory body or nationalised enterprise during the term of his office as chairman or member, he shall draw from the date of his retirement his salary *minus* his gross pension, if any.

Explanation.—In this section, "scale of pay" includes special pay, if any.

4. **Residence.**—(1) A chairman shall be entitled to a rent-free Government accommodation or a house allowance of Taka 650/- per mensem in lieu thereof.

EXHIBIT 12- LETTER OF TRANSMITTAL

To, FDBC No. FDBC/13/245 Bank Limited
C/o. Irving Trust Co. 5th Street, East Chittagong
Madison Avenue Branch, New York. East Pakistan.

Cable PAKUNITED

15-11-1971

Dear Sir,

We enclose herewith the undermentioned bills for collection as instructed. Please acknowledge receipt.

AMOUNT	TENOR	DRAWEE AND ADDRESS	DRAWER AND ADDRESS
U.S. 22,984.03	Trust receipt	555, Fifth Avenue, New York, N.Y. 10017, U.S.A.	M/s. Amin Jute Mills Limited, Sadarghat Road, CHITTAGONG.

PL.	FOLLOW INSTRUCTIONS MARKED X	
X	Documents to be released against Trust Receipt for 7 days	Documents to be delivered against payment. Documents to be delivered against Acceptance
	Goods under this bill have been shipped on consignment/sale basis. Please accept payment accordingly duly supported by signed Sale Statement of Account in quadruplicate.	
	In case of non acceptance/non payment or of the goods arriving earlier please have it stored on board (without payment of duty) and insured against usual risks under advice to us. Charges thereby incurred are on drawer's account.	
	Payment/Acceptance may be deferred till arrival of shipment X	Credit proceeds to our account with us under airmail advice to us.
X	Advice Payment / non-payment / acceptance / non acceptance with reasons by airmail	Authorise us to debit your account with us.
X	If necessary you may guarantee delivery of documents listed hereunder.	Remit proceeds to by airmail for the credit of our account with them under advice to us.
	Our charges of to be collected from drawees plus your charges (waive if definitely refused)	Remit proceeds to us by your draft.

SPECIAL INSTRUCTIONS

cost of goods on account of drawer

A 2½% charge

Details of enclosed documents covering shipment of 25 bales Hessian cloth per LONDON STATESMAN to Savannah

	Draft	Invoice	Bill of Lading Dt.	Insurance	Imp. Pref. Cert. of origin	Airway Bill/Post Rect.		Other Doc.
Original by Regd. Airmail	12/20	12/12	12/24					
DUPLICATE BY 2nd REGD. SEAMAIL	8/20	10/12	8/24					

We do not assume any responsibility for the correctness, validity or genuineness of the enclosed documents nor for description, quality, quantity, or delivery of the goods purporting to be represented hereby.

Yours faithfully,

Manager

Exch. 330 PC—7/x10015—6-61

EXHIBIT 12

EXHIBIT 13 -- LETTER OF TRANSMITTAL

United Bank Limited
[illegible] East [illegible]
East Pakistan.

Cable "PAKUNITED"

...7.
...o. 16th Street,
... Branch,
... York.

...nclose herewith the undermentioned bills for collection as instructed. Please acknowledge receipt.

...OR ...gnment ...f Sale	DRAWER AND ADDRESS ... ...55, 57th Avenue, New York, N.Y. 10...
PLEASE FOLLOW INSTRUCTIONS MARKED X	DRAWEE AND ADDRESS ...ain Jute Mills Limited.
X Documents to be released against Trust Receipt for ... days	Documents to be delivered against payment.
Goods under this bill have been shipped on consignment sale basis. Please submit Statement of Account in quadruplicate.	Documents to be delivered against Acceptance
In case of non acceptance/non payment or of the goods arriving earlier please have it stored in bond (without payment of duty) and insured against usual risks under advice to us. Charges thus incurred are on drawer's account.	
Payment/Acceptance may be deferred till arrival of shipment	
X Advice Payment / acceptance and due date / non-payment / non-acceptance with reasons by airmail	Credit proceeds to our account under airmail advice to us.
X If necessary you may guarantee delivery of documents listed hereunder.	Authorise us to debit your account with us.
Y Our charges of Rs. ...30 to be collected from drawees plus your charges (waive if definitely refused)	Remit proceeds to ... by airmail for the credit of our account with them under advice to us.
SPECIAL INSTRUCTIONS 3/V B/L S/T Invs	Remit proceeds to us by your draft.

...ount of ... account of drawers.

Foreign Exchange Stamp Rs. ...

Details of enclosed documents covering shipment of ... per ...

S.D. Draft	Invoice	Bill of Lading	Insurance	Insp. Pref. Cert. of origin	Airway Bill, Post P.Rect.	to U.S.A. ports.	Other Doc.

Original by Regd. Airmail ...

DUPLICATE BY 2nd REGD ...
SEAMAIL

We do not assume any responsibility for the correctness, validity or genuineness of the enclosed documents nor for description, quality, quantity, or delivery of the goods purporting to be represented thereby.

Exch: 530 PC—75x100x5—6-61

Yours faithfully,

Officer

Manager

EXHIBIT 13

JA117

EXHIBIT 14 - LETTER OF TRANSMITTAL

United Bank Limited

Cable: U..ITED

Dear Sir,

We enclose herewith the undermentioned bills for collection as instructed. Please acknowledge receipt.

AMOUNT	TENOR	DRAWER AND ADDRESS	DRAWEE AND ADDRESS

PLEASE FOLLOW INSTRUCTIONS MARKED X	
	Documents to be delivered against payment.
X Documents to be released against Trust Receipt for [illegible] days	Documents to be delivered against Acceptance
Goods under this bill have been shipped on consignment/sale basis. Please accept payment accordingly duly supported by signed Sale Statement of Account in quadruplicate.	
In case of non acceptance/non payment or of the goods arriving earlier please have it stored in bond (without payment of duty) and insured against usual risks under advice to us. Charges thus incurred are on drawer's account.	
Payment/Acceptance may be deferred till arrival of shipment X	Credit proceeds to our account under airmail advice to us.
X Advice Payment / non-payment / acceptance and due date / non-acceptance with reasons by airmail	Authorise us to debit your account with us.
X If necessary you may guarantee delivery of documents listed hereunder.	Remit proceeds to [illegible] by airmail for the credit of our account with them under advice to us.
* Our charges of [illegible] to be collected from drawee plus your charges (waive if definitely refused)	Remit proceeds to us by your draft.

SPECIAL INSTRUCTIONS

[illegible] DRAWEE PLEASE [illegible] CHARGES

67.50 Foreign bank charges & P.T.O.

Details of enclosed documents covering shipment of [illegible] per [illegible] to [illegible]

Draft	Invoice	Bill of Lading	Insurance	Insp. Cert.	Pref. of origin	Airway Bill	Post Rect.		Other Doc.
Original by Regd. Airmail									
DUPLICATE BY 2nd REGD. AIRMAIL									

27 163 23

We do not assume any responsibility for the correctness, validity or genuineness of the enclosed documents nor for description, quality, quantity, or delivery of the goods purporting to be represented hereby.

Yours faithfully,

Office Manager

Excl: 530 PC—75x100x5—6-81

EXHIBIT 14

JA118

EXHIBIT 15 - LETTER OF TRANSMITTAL

United Bank Limited
Laldighi East:Chittagong
East Pakistan.

Cable: PAKUNITED

To, FDBC No. FDBC/13/193. 5-8-1971.
Irving Trust Co.
46th Street, Madison Avenue Branch, New York.

Dear Sir, We enclose herewith the undermentioned bills for collection as instructed. Please acknowledge receipt.

AMOUNT	TENOR	DRAWER AND ADDRESS	DRAWEE AND ADDRESS
$.29,223.40	Trust receipt	Pak Am Inc. 55 Fifth Avenue, New York 10017, U.S.A.	M/s.Amin Jute Mills Ltd. Sagarghat Road, Chittagong.

PLEASE FOLLOW INSTRUCTIONS MARKED X

- X — Documents to be released against Trust Receipt for 30 days — Documents to be delivered against Acceptance
- Goods under this bill have been shipped on consignment sale basis. Statement of Account in quadruplicate. — Please accept payment accordingly duly supported by signed Sale
- In case of non acceptance/non payment or of the goods arriving earlier please have it stored in bond (without payment of duty) and insured against usual risks under advice to us. Charges thus incurred are on drawer's account.
- Payment/Acceptance may be deferred till arrival of shipment — X — Credit proceeds to our account under mail advice to us.
- X — Advice Payment / non-payment acceptance and due date / non-acceptance with reasons by airmail — Authorise us to debit your account with the
- X — If necessary you may guarantee delivery of documents listed hereunder. — Remit proceeds to by airmail for the credit of our account with them unconditional advice to us.
- X — Our charges of $7.50 to be collected from drawees plus your charges (waive if definitely released) — DD — Remit proceeds to us by your draft.

SPECIAL INSTRUCTIONS cost of cable on account of drawer.

FROM CHITTAGONG TO SAVANNAH

Details of enclosed documents covering shipment of 1/1 Bolla Hessian cloth Articles to U.S.Ports.

	Draft	Invoice	Bill of Lading	Ins. Policy/Certificate	Imp. Prof.	Airway Bill/Post Cert. of origin	P.Rect.	Dt.	Other Doc.
Sp. goods									
Original by Regd. Airmail	36/60	60/103	36/60						
DUPLICATE BY 2nd REGD. SEAMAIL	24/60	48/103	24/60						

We do not assume any responsibility for the correctness, validity or genuineness of the enclosed documents nor for description, quality, quantity, or delivery of the goods purporting to be represented hereby.

Yours faithfully,

Manager

Exch. 530 PC—75x10m3—6-61

EXHIBIT 15

EXHIBIT 16 - LETTER OF TRANSMITTAL

UNITED BANK LIMITED

To, FDBC No. [illegible]/68
M/s. Irving Trust Co.,
[illegible] Street, [illegible]

Cable : ~~[illegible]~~

Dear Sir,

We enclose herewith the undermentioned bills for collection as instructed. Please acknowledge receipt.

AMOUNT	TENOR	DRAWER AND ADDRESS	DRAWER AND ADDRESS
[illegible]	[illegible]	[illegible]	[illegible] Ltd, [illegible], Calcutta-

PLEASE FOLLOW INSTRUCTIONS

		Documents to be delivered against payment.	
Y	Documents to be released against Trust Receipt for [illegible] days.	Documents to be delivered against Acceptance.	
	Goods under this bill have been shipped on consignment sale basis. Please accept payment accordingly duly supported by signed Sale Statement of Account in quadruplicate.		
	In case of non-acceptance/non-payment of the goods arriving earlier please have it stored in bond (without payment of duty) and insured against usual risks under advice to us. Charges thus incurred are on drawer's account.		
	Payment/Acceptance may be deferred till arrival of shipment	Credit proceeds to our account under airmail advice to us.	
X	Advice Payment / non-payment acceptance / non-acceptance with reasons by airmail	Authorise us to debit your account with us.	
X	If necessary you may guarantee delivery of documents listed hereunder.	Remit proceeds to by a/mail for the credit of our account with them under advice to us.	
	Our charges of to be collected from drawees plus your charges (waive if definitely refused).	Remit proceeds to us by your draft	

SPECIAL INSTRUCTIONS

[illegible]

Details of enclosed documents covering shipment of [illegible] per [illegible]

	Draft	Invoice	Bill of Lading	Insurance	Imp. Perf. Cert. of origin	A[illegible] bill/Post P. Rect. Dt.	Other Doc.
Original by Regd. Airmail							
DUPLICATE BY 2nd REGD. SEAMAIL							

We do not assume any responsibilities for correctness, validity or genuineness of the enclosed documents, nor for description, quality, quantity, or delivery of the goods purporting to be represented hereby.

Yours faithfully,

Authorised Signatory Officer Manager

EXHIBIT 16

EXHIBIT 17 - LETTER OF TRANSMITTAL

To, [illegible] No. FDBC.13/1[illegible] UNITED BANK LIMITED Cable :

Irving Trust Co.
[illegible] S-treet, Madi[illegible] Avenue, Branch : Stuart Publication,
New York.

Dear Sir,

We enclose herewith the undermentioned bills for collection as instructed. Please acknowledge receipt.

AMOUNT	TENOR	DRAWEE AND ADDRESS	DRAWER AND ADDRESS
$37,70[illegible]	[illegible]	[illegible]	Adamjee Jute Mills Ltd [illegible] Road, [illegible]

PLEASE FOLLOW INSTRUCTIONS MARKED X

X Documents to be released against Trust Receipt for [illegible] days.

Documents to be delivered against payment.

Document to be delivered against Acceptance.

Goods under this bill have been shipped on consignment sale basis. Please accept payment accordingly duly supported by signed Sale Statement of Account in quadruplicate.

In case of non-acceptance/non-payment or of the goods arriving earlier please have it stored in bon (without payment of duty) and insured against usual risks under advice to us. Charges thus incurred are on drawer's account.

Payment/Acceptance may be referred till arrival of shipment.

X Advice Payment / acceptance and due date / non-payment / non-acceptance with reasons by airmail

Credit proceeds to our account under airmail advice to us.
Karachi office.

X If necessary you may guarantee delivery of documents listed hereunder.

Authorise us to debit your account with us.

X Our charges of [illegible] to be collected from drawees plus your charges (which will definitely refused).

Remit proceeds to us by your draft.

SPECIAL INSTRUCTIONS [illegible]

Details of enclosed documents covering shipment of [illegible] per [illegible] ADVOCATE from Philadelphia

Draft	Invoice	Bill of Lading	Insurance	Imp. Pref. Cert. of origin	Airway Bill/Post	Other Doc.
Original by Regd. Airmail						
DUPLICATE BY 2nd REGD. SEAMAIL						

We do not assume any responsibilities for correctness, validity or genuineness of the enclosed documents, nor for description, quality, quantity, or delivery of the goods purporting to be represented thereby.

EXCHANGE RATE ASSIGNED

Yours faithfully,

(Officer)

Manager

EXHIBIT 17

JA121

EXHIBIT 18 - LETTER OF TRANSMITTAL

United Bank Limited
Lalghi East Chittagong
East Pakistan.

Cable

To. FDEC No. 13/2[illegible]
Irving Trust Co. 46th Street,
Madison Avenue Branch, New [illegible]

23-10-1971.

Dear Sir,

We enclose herewith the undermentioned bills for collection as instructed. Please acknowledge receipt.

AMOUNT	T.	DRAWEE AND ADDRESS	DRAWEE AND ADDRESS
£.27,[illegible].22	Consignment basis.	[illegible] Inc. 355, [illegible] Avenue New York, N.Y. 10[illegible] U.S.A.	M/s. Main Jute Mills Limited. [illegible]ghat Road, Chittagong.

PLEASE FOLLOW INSTRUCTIONS MARKED X	
	Documents to be delivered against payment.
X Documents to be released against Trust Receipt for 20 days	Documents to be delivered against Acceptance
Goods under this bill have been shipped on consignment sale basis. Please accept payment accordingly duly supported by signed Sale Statement of Account in quadruplicate.	
In case of non acceptance/non payment or if the goods arriving earlier please have it stored in bond (without payment of duty) and insured against usual risks under advice to us. Charges thus incurred are on drawer's account.	
Payment/Acceptance may be deferred till arrival of shipment	Credit proceeds to our Branchi office Accl.
X Advice of Payment / non-payment acceptance and due date non-acceptance with reasons by airmail	Authorise us to debit your account with us.
X If necessary you may guarantee delivery of documents listed hereunder.	Remit proceeds to by airmail for the credit of our account with them under advice to us.
Our charges of to be collected from drawees plus your charges (waive if definitely refused)	Remit proceeds to us by your draft. [illegible]

SPECIAL INSTRUCTIONS

Cost of bale on account of drawer.

Value $ 27.50
Value $ 31.90 Charges

Details of enclosed documents covering shipment of 111 bales Hessian Cloth [illegible] to U.S.A.

SP. Goods	Invoice	Bill of Lading Dt.	Insurance	Insp. Pref. Cert. of origin	Airway Bill/Post P.Rect. Dt.		Other Doc.	Port.
Original by Regd. Airmail	33/55	76/223	12/66					
DUPLICATE BY 2nd REGD. SEAMAIL	33/55	76/223	12/66					

We do not assume any responsibility for the correctness, validity or genuineness of the enclosed documents nor for description, quantity, or delivery of the goods purporting to be represented hereby.

Yours faithfully,

Exch: 530 PC—76x100x5—6-61

(Office)

EXHIBIT 18

EXHIBIT 19 - ASSIGNMENT AND TRUST RECEIPTS ATTACHED

225—General Assignment.

JULIUS BLUMBERG, INC., LAW BLANK PUBLISHERS
71 BROADWAY AND 1 RECTOR ST., NEW YORK

Know all Men by these Presents,

That Amin Jute Mills Limited, a corporation organized and existing under the laws of the Republic of Pakistan and maintaining its principal office at Alico Building No. 2, Alico Square, Chundrigar Road, Karachi, Pakistan,

for value received, have sold and by these presents do grant, assign and convey unto United Bank Limited, a corporation organized and existing under the laws of the Republic of Pakistan, and maintaining its principal office at the American Life Building, P.O. Box No. 4402, 1.1. Chundrigar Road, Karachi, Pakistan, all its right, title and interest in and to (a) the rights of the entruster and its agents against Cosmic International, Inc. under the seven trust receipts dated August 11, 1971, August 13, 1971, August 19, 1971, September 14, 1971, October 28, 1971, November 4, 1971 and December 3, 1971 (copies of which are attached hereto), (b) the jute and hessian cloth and documents and instruments described in the trust receipts and the proceeds thereof, and (c) any amounts to which it may be finally adjudged to be entitled in consolidated actions now pending in the United States District Court for the Southern District of New York, United States of America entitled United Bank Limited v. Cosmic International, Inc. and Janata Bank and Amin Jute Mills Ltd. v. Cosmic International, Inc. and Irving Trust Company, 72 Civ. 5209 CLB,

To have and to hold *the same unto the said* United Bank Limited and its successors ~~executors, administrators~~ *and assigns forever, to and for the use of* United Bank Limited

hereby constituting and appointing United Bank Limited its *true and lawful attorney irrevocable in* its *name, place and stead, for the purposes aforesaid, to ask, demand, sue for, attach, levy, recover and receive all such sum and sums of money which now are, or may hereafter become due, owing and payable for, or on account of all or any of the accounts, dues, debts, and demands above assigned* to United Bank Limited

giving and granting unto the said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary, as fully, to all intents and purposes, as it *might or could do, if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that the said attorney or* its *substitute shall lawfully do, or cause to be done by virtue hereof.*

In Witness Whereof, *have hereunto set hand and seal the day of one thousand nine hundred and* seventy three

AMIN JUTE MILLS LIMITED

Signed, sealed and delivered in the presence of

By _____

Title DIRECTOR

EXHIBIT 19

State of
County of } ss.:

On the day of , nineteen hundred and
before me came

to me known and known to me to be the individual described in, and who executed, the foregoing instrument, and acknowledged to me that he executed the same.

State of [illegible] }
County of [illegible] } ss.:

On the 22nd day of May 1973 , nineteen hundred and Seventy Three
before me came A. Latif to me known, who,
being by me duly sworn, did depose and say that he resides in Karachi, Pakistan

that he is the Director of Amin Jute Mills Ltd.

the corporation described in, and which executed, the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of Directors of said corporation; and that he signed his name thereto by like order.

Dena Cunningham
Consul of the United States of America, Karachi, Pakistan

Service No. B-1482640
Tariff Item No. 45
Fee Paid U. S. $ 2.50
Local C.Y. equiv. Rs. 25.00

Assignment

Dated, 19

TRUST RECEIPT

New York AUGUST 11, 1971

The undersigned (hereinafter called the "Trustee") hereby acknowledges receipt from IRVING TRUST COMPANY, acting as agent for UNITED BANK LTD LALDIGHI E. CHITTAGONG E. PAKISTAN

FDBC 13/184 7/27/71

(hereinafter called the "Entruster") of the goods, documents or instruments listed below (which, together with the goods represented by said documents and all improvements or additions to or products of goods, are all hereinafter called the "Collateral") and hereby grants a security interest in favor of the Entruster in the Collateral and in contract rights relating thereto and in proceeds of both, and acknowledges that a security interest therein remains in, or will remain in, or has passed to, or will pass to, the Entruster.

Nature and Date of Document(s)/ Instrument(s)	Location of Mdse. i.e., Vessel, Car No. or Warehouse, etc.	Description and Quantity of Merchandise	Marks and Numbers
18BLADING 32INVOICES 18 SPECS	"LONDON ADVOCATE"	136 ROLLS JUTE	VARIOUS

The aforesaid security interest acknowledged or granted hereby secures payment of any and all liabilities of the Trustee to the Entruster, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and renewals or extensions thereof, whether under letters of credit, acceptances, guaranties, promissory notes, or otherwise.

In consideration of the delivery thereof the Trustee agrees to hold the Collateral in trust for the Entruster and subject to its security interest, to be used promptly by the Trustee without expense to the Entruster for the following purpose(s) checked below but for no other purpose and without liberty to encumber the same or, unless hereafter expressly provided, to sell the same:—

- ☐ 1. To transfer to carrier (land, water or air).
- ☐ 2. To transfer to warehouse.
- ☐ 3. To deliver said goods to_____ who have/has agreed to purchase the same for $_____ payable in_____
- ☐ 4. To sell said goods, subject to the following limitations (if any):
- ☐ 5. To manufacture or process said goods and to sell the same, whether or not manufactured or processed.
- ☐ 6. To make customs entry.
- ☒ 7. To arrange for inspection by U.S. Food and Drug Administration and after passage of inspection, for such other purpose(s) as may be checked hereon or hereafter consented to in writing (whether by endorsement on the back hereof or otherwise) by the Entruster.
- ☐ 8. To procure documents for presentation or collection against Letter of Credit No.
- ☐ 9. To arrange for exchange of inland documents for ocean documents.
- ☐ 10. [*Instruments only*] To sell or exchange; or to present, collect, renew or procure registration of transfer.
- ☐ 11. [*Other*] (NOTE: *Any other purpose must be substantially equivalent to a purpose set forth in Section 9-304(5) of the Uniform Commercial Code or Section 2(3) of the Uniform Trust Receipts Act.*)

The Trustee agrees to account to the Entruster by delivering to it or its agent, IRVING TRUST COMPANY, immediately upon the receipt thereof by the Trustee, the following, according to the purpose(s) for which the Collateral has been delivered to the Trustee as indicated above:—

1, 8 or 9: Proper and sufficient bills of lading in negotiable form satisfactory to the Entruster and related documents.

2 or 6: Proper and sufficient warehouse receipts in form satisfactory to the Entruster, and related documents.

3, 4, or 5, or if any liberty of sale is stated under 10 above: The proceeds of the sale of the Collateral in whatever form received. If such proceeds are cash proceeds they shall be applied to or towards payment of the liabilities hereby secured. If such proceeds are notes, bills receivable, acceptances or in any form other than cash proceeds, they shall not be so applied by the Entruster until paid; the Entruster and its agent, IRVING TRUST COMPANY, however, shall have the option at any time to sell or discount such items and so apply, conditionally upon final payment of such items, the net proceeds thereof. The Entruster shall have full power to compromise and collect such proceeds in its own name or that of the Trustee.

7. Notification of passage or non-passage by U.S. Food and Drug Administration with payment of $37,702.42 for such goods if passage effected and Trust Receipt not otherwise checked, unless Entruster approves continuance of Trust Receipt for other purposes. If passage is not effected, proper and sufficient bills of lading or warehouse receipts or equivalent documents. If notification of passage or non-passage is not received from U.S. Food and Drug Administration within fifteen days from date of arrival of steamer the Trustee is immediately to ascertain and notify the Entruster in writing of the status of the transaction.

10. [*Instruments Only*] The proceeds of the sale or exchange of the Collateral (cash and non-cash proceeds to be applied in the same manner as for items 3, 4 or 5 above), or the instruments as renewed or as newly registered, as the case may be. The Trustee agrees that unless delivery of such proceeds or instruments is made within twenty-one days from the date hereof, the instruments originally delivered to the Trustee hereunder shall be returned to the Entruster.

11.

$37,702.42 PAYABLE 180 DAYS AFTER DATE OF THIS TRUST RECEIPT.

The Trustee agrees that unless a proper financing statement or Statement of Trust Receipt financing, covering the goods and/or documents as appropriate, has been filed within twenty-one days from the date hereof (or has previously been filed and will continue effective beyond such twenty-one day period) or the items required to be delivered to the Entruster or its agent, IRVING TRUST COMPANY, have been so delivered within such twenty-one day period, the documents originally delivered to the Trustee hereunder shall be returned to the Entruster by delivery to its agent, IRVING TRUST COMPANY. If the Uniform Commercial Code of any State in which any relevant financing statement is to be filed so permits, the Trustee hereby authorizes the Entruster, or its agent, IRVING TRUST COMPANY, to sign and file such financing statement.

(over)

The Trustee agrees to pay all expenses and charges in connection with the Collateral and all proceeds thereof, and at all times while the same are in its hands to hold the Collateral and proceeds separate and distinct from any property of the Trustee and readily capable of identification and to show such separation in all its records and entries.

The Trustee agrees to keep the Collateral at all times fully insured, at the Trustee's expense, in favor of and to the satisfaction of the Entruster, and its agent, IRVING TRUST COMPANY, against loss or damage by fire, theft and any other risks to which the same may be subject, and the proceeds of insurance received for any loss or damage shall be subject to the trust hereof in the same manner as the Collateral itself. The Trustee further agrees to deliver policies or certificates of such insurance to IRVING TRUST COMPANY, as agent for the Entruster, upon demand.

The Entruster or its agent, IRVING TRUST COMPANY, may at any time, without notice or demand, cancel this trust and/or declare all liabilities secured hereby immediately due and payable and this agreement in default, and thereafter the Entruster shall have, in any jurisdiction where enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code of New York, including, without limitation thereto, the right to take possession of the Collateral and any proceeds thereof, wherever and in whatever form they may be, and for that purpose the Entruster or said agent may, so far as the Trustee can give authority therefor, enter upon any premises on which the Collateral or any proceeds thereof may be situated and remove the same therefrom. The Entruster or said agent may require the Trustee to make the Collateral available to the Entruster or said agent at a place to be designated by the Entruster or said agent which is reasonably convenient to both parties. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Entruster or said agent shall give the Trustee five days' prior written notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. The Trustee agrees to pay all expenses of retaking, holding, preparing for sale, selling or the like, including the Entruster's and said agent's reasonable attorneys' fees and legal expenses. If the Uniform Trust Receipts Act applies, as to articles manufactured by style or model, the Trustee's interest therein may be forfeited, at the election of the Entruster or its agent, IRVING TRUST COMPANY, in the event of any default on the part of the Trustee, against cancellation to the extent and as provided by law of the Trustee's then remaining indebtedness with respect to such articles.

The Trustee agrees to deliver to the Entruster and its agent, IRVING TRUST COMPANY, on demand accurate records and copies of all accounts with respect to the Collateral or proceeds thereof and to execute any assignments or other documents in connection therewith which the Entruster and said agent may require, the Trustee hereby covenanting that there shall be no offsets or credits against any claims or accounts constituting proceeds of the Collateral and guaranteeing payment of said claims and accounts in full.

Neither the Entruster nor its agent, IRVING TRUST COMPANY, shall be responsible for the correctness, validity or genuineness of any documents referred to herein or for the existence, character, quantity, quality, condition, value or delivery of any goods purported to be represented thereby.

No waiver of any rights or powers of the Entruster or consent by it shall be valid unless in writing signed by the Entruster. The rights and powers herein given the Entruster are in addition to all others however arising. This agreement shall be binding upon the Trustee, and the heirs, executors, administrators, successors and assigns of the Trustee, and shall inure to the benefit of, and be enforceable by, the Entruster, and its successors and assigns.

If this Trust Receipt is signed by more than one person, it shall be the joint and several obligation of such persons.

(Give such other information to identify transaction)

TR 73/337 E991P

due 2/6/72

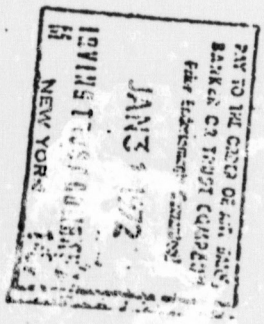
PAK AM INC. 555 FIFTH AVE. Trustee

By [signature] (Authorized Signature)

Aug 12, 71

NEW YORK NY Address

95/00 UCC (1-66)



TRUST RECEIPT

New York AUGUST 13, 1971

The undersigned (hereinafter called the "Trustee") hereby acknowledges receipt from IRVING TRUST COMPANY, acting as agent for UNITED BANK LTD. LALDIGHI E.CHITTAGONG E.PAKISTAN FORC 1-5/08 8/3/71 (hereinafter called the "Entruster") of the goods, documents or instruments listed below (which, together with the goods represented by said documents and all improvements or additions to or products of goods, are all hereinafter called the "Collateral") and hereby grants a security interest in favor of the Entruster in the Collateral and in contract rights relating thereto and in proceeds of both, and acknowledges that a security interest therein remains in, or will remain in, or has passed to, or will pass to, the Entruster.

Nature and Date of Document(s)/ Instrument(s)	Location of Mdse. i.e., Vessel, Car No. or Warehouse, etc.	Description and Quantity of Merchandise	Marks and Numbers
42BLADING 111 COMM INV. 52SPEUFCIATIONS	"SS MANIPUR"	396ROLLS HESSION CLOTH	VARIOUS

The aforesaid security interest acknowledged or granted hereby secures payment of any and all liabilities of the Trustee to the Entruster, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and renewals or extensions thereof, whether under letters of credit, acceptances, guaranties, promissory notes, or otherwise.

In consideration of the delivery thereof the Trustee agrees to hold the Collateral in trust for the Entruster and subject to its security interest, to be used promptly by the Trustee without expense to the Entruster for the following purpose(s) checked below but for no other purpose and without liberty to encumber the same or, unless hereafter expressly provided, to sell the same:—

- ☐ 1. To transfer to carrier (land, water or air).
- ☐ 2. To transfer to warehouse.
- ☐ 3. To deliver said goods to _____ who have/has agreed to purchase the same for $_____ payable in _____
- ☐ 4. To sell said goods, subject to the following limitations (if any):
- ☐ 5. To manufacture or process said goods and to sell the same, whether or not manufactured or processed.
- ☐ 6. To make customs entry.
- ☐ 7. To arrange for inspection by U.S. Food and Drug Administration and after passage of inspection, for such other purpose(s) as may be checked hereon or hereafter consented to in writing (whether by endorsement on the back hereof or otherwise) by the Entruster.
- ☐ 8. To procure documents for presentation or collection against Letter of Credit No.
- ☐ 9. To arrange for exchange of inland documents for ocean documents.
- ☐ 10. [*Instruments only*] To sell or exchange; or to present, collect, renew or procure registration of transfer.
- ☐ 11. [*Other*] (NOTE: *Any other purpose must be substantially equivalent to a purpose set forth in Section* 9-304(5) *of the Uniform Commercial Code or Section* 2(3) *of the Uniform Trust Receipts Act.*)

The Trustee agrees to account to the Entruster by delivering to it or its agent, IRVING TRUST COMPANY, immediately upon the receipt thereof by the Trustee, the following, according to the purpose(s) for which the Collateral has been delivered to the Trustee as indicated above:—

1, 8 or 9: Proper and sufficient bills of lading in negotiable form satisfactory to the Entruster and related documents.

2 or 6: Proper and sufficient warehouse receipts in form satisfactory to the Entruster and related documents.

3, 4, or 5, or if any liberty of sale is stated under 10 above: The proceeds of the sale of the Collateral in whatever form received. If such proceeds are cash proceeds they shall be applied to or towards payment of the liabilities hereby secured. If such proceeds are notes, bills receivable, acceptances or in any form other than cash proceeds, they shall not be so applied by the Entruster until paid; the Entruster and its agent, IRVING TRUST COMPANY, however, shall have the option at any time to sell or discount such items and so apply, conditionally upon final payment of such items, the net proceeds thereof. The Entruster shall have full power to compromise and collect such proceeds in its own name or that of the Trustee.

7. Notification of passage or non-passage by U.S. Food and Drug Administration with payment of $120,036.58 for such goods if passage effected and Trust Receipt not otherwise checked, unless Entruster approves continuance of Trust Receipt for other purposes. If passage is not effected, proper and sufficient bills of lading or warehouse receipts or equivalent documents. If notification of passage or non-passage is not received from U.S. Food and Drug Administration within fifteen days from date of arrival of steamer the Trustee is immediately to ascertain and notify the Entruster in writing of the status of the transaction.

10. [*Instruments Only*] The proceeds of the sale or exchange of the Collateral (cash and non-cash proceeds to be applied in the same manner as for items 3, 4 or 5 above), or the instruments as renewed or as newly registered, as the case may be. The Trustee agrees that unless delivery of such proceeds or instruments is made within twenty-one days from the date hereof, the instruments originally delivered to the Trustee hereunder shall be returned to the Entruster.

11. $120,036.58 PAYABLE 180 DAYS FROM DATE OF THIS TRUST RECEIPT

The Trustee agrees that unless a proper financing statement or Statement of Trust Receipt Financing, covering the goods and/or documents as appropriate, has been filed within twenty-one days from the date hereof (or has previously been filed and will continue effective beyond such twenty-one day period) or the items required to be delivered to the Entruster or its agent, IRVING TRUST COMPANY, have been so delivered within such twenty-one day period, the documents originally delivered to the Trustee hereunder shall be returned to the Entruster by delivery to its agent, IRVING TRUST COMPANY. If the Uniform Commercial Code of any State in which any relevant financing statement is to be filed so permits, the Trustee hereby authorizes the Entruster, or its agent, IRVING TRUST COMPANY, to sign and file such financing statement.

(over)

The Trustee agrees to pay all expenses and charges in connection with the Collateral and any proceeds thereof, and at all times while the same are in its hands to hold the Collateral and proceeds separate and distinct from any property of the Trustee and readily capable of identification and to show such separation in all its records and entries.

The Trustee agrees to keep the Collateral at all times fully insured, at the Trustee's expense in favor of and to the satisfaction of the Entruster, and its agent, IRVING TRUST COMPANY, against loss or damage by fire, theft and any other risks to which the same may be subject, and the proceeds of insurance received for any loss or damage shall be subject to the trust hereof in the same manner as the Collateral itself. The Trustee further agrees to deliver policies or certificates of such insurance to IRVING TRUST COMPANY, as agent for the Entruster, upon demand.

The Entruster or its agent, IRVING TRUST COMPANY, may at any time, without notice or demand, cancel this trust and/or declare all liabilities secured hereby immediately due and payable and this agreement in default, and thereafter the Entruster shall have, in any jurisdiction where enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code of New York, including, without limitation thereto, the right to take possession of the Collateral and any proceeds thereof, wherever and in whatever form they may be, and for that purpose the Entruster or said agent may, so far as the Trustee can give authority therefor, enter upon any premises on which the Collateral or any proceeds thereof may be situated and remove the same therefrom. The Entruster or said agent may require the Trustee to make the Collateral available to the Entruster or said agent at a place to be designated by the Entruster or said agent which is reasonably convenient to both parties. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Entruster or said agent shall give the Trustee five days' prior written notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. The Trustee agrees to pay all expenses of retaking, holding, preparing for sale, selling or the like, including the Entruster's and said agent's reasonable attorneys' fees and legal expenses. If the Uniform Trust Receipts Act applies, as to articles manufactured by style or model, the Trustee's interest therein may be forfeited, at the election of the Entruster or its agent, IRVING TRUST COMPANY, in the event of any default on the part of the Trustee, against cancellation to the extent and as provided by law of the Trustee's then remaining indebtedness with respect to such articles.

The Trustee agrees to deliver to the Entruster and its agent, IRVING TRUST COMPANY, on demand accurate records and copies of all accounts with respect to the Collateral or proceeds thereof and to execute any assignments or other documents in connection therewith which the Entruster and said agent may require, the Trustee hereby covenanting that there shall be no offsets or credits against any claims or accounts constituting proceeds of the Collateral and guaranteeing payment of said claims and accounts in full.

Neither the Entruster nor its agent, IRVING TRUST COMPANY, shall be responsible for the correctness, validity or genuineness of any documents referred to herein or for the existence, character, quantity, quality, condition, value or delivery of any goods purported to be represented thereby.

No waiver of any rights or powers of the Entruster or consent by it shall be valid unless in writing signed by the Entruster. The rights and powers herein given the Entruster are in addition to all others however arising. This agreement shall be binding upon the Trustee, and the heirs, executors, administrators, successors and assigns of the Trustee, and shall inure to the benefit of, and be enforceable by, the Entruster, and its successors and assigns.

If this Trust Receipt is signed by more than one person, it shall be the joint and several obligation of such persons.

(Give sufficient information to identify transaction)

PAK AM ING. 555 FIFTH AVE. Trustee

TR 71/341 F189P

By [signature] (Authorized Signature)

Aug 16, 71

Due 2/14/72

NEW YORK NY Address

95/00 UCC (1-66)

PAY TO THE ORDER OF ANY BANK, BANKER OR TRUST COMPANY
Prior Endorsements Guaranteed
FEB 7 1972
IRVING TRUST COMPANY
NEW YORK 1-67

JA128

TRUST RECEIPT

New York AUGUST 12,1971

The undersigned (hereinafter called the "Trustee") hereby acknowledges receipt from IRVING TRUST COMPANY, acting as agent for UNITED BANK LTD LALDIGHI CHITTAGONG E.PAKISTAN

FDBC/13/1127 8/5/71

(hereinafter called the "Entruster") of the goods, documents or instruments listed below (which, together with the goods represented by said documents and all improvements or additions to or products of goods, are all hereinafter called the "Collateral") and hereby grants a security interest in favor of the Entruster in the Collateral and in contract rights relating thereto and in proceeds of both, and acknowledges that a security interest therein remains in, or will remain in, or has passed to, or will pass to, the Entruster.

Nature and Date of Document(s)/ Instrument(s)	Location of Mdse. i.e., Vessel, Car No. or Warehouse, etc.	Description and Quantity of Merchandise	Marks and Numbers
136 COMM. INV. 65 SPECS 60 BLADXNGS	"SS ARISTOFILOS"	112ROLLS HESSIAN CLOTH(TOTAL)	VARIOUS

The aforesaid security interest acknowledged or granted hereby secures payment of any and all liabilities of the Trustee to the Entruster, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and renewals or extensions thereof, whether under letters of credit, acceptances, guaranties, promissory notes, or otherwise.

In consideration of the delivery thereof the Trustee agrees to hold the Collateral in trust for the Entruster and subject to its security interest, to be used promptly by the Trustee without expense to the Entruster for the following purpose(s) checked below but for no other purpose and without liberty to encumber the same or, unless hereafter expressly provided, to sell the same:—

- ☐ 1. To transfer to carrier (land, water or air).
- ☐ 2. To transfer to warehouse.
- ☐ 3. To deliver said goods to _____ who have/has agreed to purchase the same for $_____ payable in _____
- ☐ 4. To sell said goods, subject to the following limitations (if any):
- ☐ 5. To manufacture or process said goods and to sell the same, whether or not manufactured or processed.
- ☐ 6. To make customs entry.
- ☒ 7. To arrange for inspection by U.S. Food and Drug Administration and after passage of inspection, for such other purpose(s) as may be checked hereon or hereafter consented to in writing (whether by endorsement on the back hereof or otherwise) by the Entruster.
- ☐ 8. To procure documents for presentation or collection against Letter of Credit No.
- ☐ 9. To arrange for exchange of inland documents for ocean documents.
- ☐ 10. [*Instruments only*] To sell or exchange; or to present, collect, renew or procure registration of transfer.
- ☐ 11. [*Other*] (NOTE: *Any other purpose must be substantially equivalent to a purpose set forth in Section 9-304(5) of the Uniform Commercial Code or Section 2(3) of the Uniform Trust Receipts Act.*)

The Trustee agrees to account to the Entruster by delivering to it or its agent, IRVING TRUST COMPANY, immediately upon the receipt thereof by the Trustee, the following, according to the purpose(s) for which the Collateral has been delivered to the Trustee as indicated above:—

1, 8 or 9: Proper and sufficient bills of lading in negotiable form satisfactory to the Entruster and related documents.

2 or 6: Proper and sufficient warehouse receipts in form satisfactory to the Entruster and related documents.

3, 4, or 5, or if any liberty of sale is stated under 10 above: The proceeds of the sale of the Collateral in whatever form received. If such proceeds are cash proceeds they shall be applied to or towards payment of the liabilities hereby secured. If such proceeds are notes, bills receivable, acceptances or in any form other than cash proceeds, they shall not be so applied by the Entruster until paid; the Entruster and its agent, IRVING TRUST COMPANY, however, shall have the option at any time to sell or discount such items and so apply, conditionally upon final payment of such items, the net proceeds thereof. The Entruster shall have full power to compromise and collect such proceeds in its own name or that of the Trustee.

7. Notification of passage or non-passage by U.S. Food and Drug Administration with payment of $29,223.40 for such goods if passage effected and Trust Receipt not otherwise checked, unless Entruster approves continuance of Trust Receipt for other purposes. If passage is not effected, proper and sufficient bills of lading or warehouse receipts or equivalent documents. If notification of passage or non-passage is not received from U.S. Food and Drug Administration within fifteen days from date of arrival of steamer the Trustee is immediately to ascertain and notify the Entruster in writing of the status of the transaction.

10. [*Instruments Only*] The proceeds of the sale or exchange of the Collateral (cash and non-cash proceeds to be applied in the same manner as for items 3, 4 or 5 above), or the instruments as renewed or as newly registered, as the case may be. The Trustee agrees that unless delivery of such proceeds or instruments is made within twenty-one days from the date hereof, the instruments originally delivered to the Trustee hereunder shall be returned to the Entruster.

11. $29,223.40 PAYABEL AT 180 DAYS FROM DATE OF THIS TRUST RECEIPT

The Trustee agrees that unless a proper financing statement or Statement of Trust Receipt Financing, covering the goods and/or documents as appropriate, has been filed within twenty-one days from the date hereof (or has previously been filed and will continue effective beyond such twenty-one day period) or the items required to be delivered to the Entruster or its agent, IRVING TRUST COMPANY, have been so delivered within such twenty-one day period, the documents originally delivered to the Trustee hereunder shall be returned to the Entruster by delivery to its agent, IRVING TRUST COMPANY. If the Uniform Commercial Code of any State in which any relevant financing statement is to be filed so permits, the Trustee hereby authorizes the Entruster, or its agent, IRVING TRUST COMPANY, to sign and file such financing statement.

(over)

The Trustee agrees to pay all expenses, charges in connection with the Collateral and all proceeds thereof, and at all times while the same are in its hands to hold the Collateral and proceeds separate and distinct from any property of the Trustee and readily capable of identification and to show such separation in all its records and entries.

The Trustee agrees to keep the Collateral at all times fully insured, at the Trustee's expense, in favor of and to the satisfaction of the Entruster, and its agent, IRVING TRUST COMPANY, against loss or damage by fire, theft and any other risks to which the same may be subject, and the proceeds of insurance received for any loss or damage shall be subject to the trust hereof in the same manner as the Collateral itself. The Trustee further agrees to deliver policies or certificates of such insurance to IRVING TRUST COMPANY, as agent for the Entruster, upon demand.

The Entruster or its agent, IRVING TRUST COMPANY, may at any time, without notice or demand, cancel this trust and/or declare all liabilities secured hereby immediately due and payable and this agreement in default, and thereafter the Entruster shall have, in any jurisdiction where enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code of New York, including, without limitation thereto, the right to take possession of the Collateral and any proceeds thereof, wherever and in whatever form they may be, and for that purpose the Entruster or said agent may, so far as the Trustee can give authority therefor, enter upon any premises on which the Collateral or any proceeds thereof may be situated and remove the same therefrom. The Entruster or said agent may require the Trustee to make the Collateral available to the Entruster or said agent at a place to be designated by the Entruster or said agent which is reasonably convenient to both parties. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Entruster or said agent shall give the Trustee five days' prior written notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. The Trustee agrees to pay all expenses of retaking, holding, preparing for sale, selling or the like, including the Entruster's and said agent's reasonable attorneys' fees and legal expenses. If the Uniform Trust Receipts Act applies, as to articles manufactured by style or model, the Trustee's interest therein may be forfeited, at the election of the Entruster or its agent, IRVING TRUST COMPANY, in the event of any default on the part of the Trustee, against cancellation to the extent and as provided by law of the Trustee's then remaining indebtedness with respect to such articles.

The Trustee agrees to deliver to the Entruster and its agent, IRVING TRUST COMPANY, on demand accurate records and copies of all accounts with respect to the Collateral or proceeds thereof and to execute any assignments or other documents in connection therewith which the Entruster and said agent may require, the Trustee hereby covenanting that there shall be no offsets or credits against any claims or accounts constituting proceeds of the Collateral and guaranteeing payment of said claims and accounts in full.

Neither the Entruster nor its agent, IRVING TRUST COMPANY, shall be responsible for the correctness, validity or genuineness of any documents referred to herein or for the existence, character, quantity, quality, condition, value or delivery of any goods purported to be represented thereby.

No waiver of any rights or powers of the Entruster or consent by it shall be valid unless in writing signed by the Entruster. The rights and powers herein given the Entruster are in addition to all others however arising. This agreement shall be binding upon the Trustee, and the heirs, executors, administrators, successors and assigns of the Trustee, and shall inure to the benefit of, and be enforceable by, the Entruster, and its successors and assigns.

If this Trust Receipt is signed by more than one person, it shall be the joint and several obligation of such persons.

555

(Give sufficient information to identify transaction)

PAK AM INC. FIFTH AVE. Trustee

TR 71/352 E705P

By (Authorized Signature)

Due 2/15/72

NEW YORK NY 10017 Address

95/00 UCC (1-66)

TRUST RECEIPT

9/14/71

New York

The undersigned (hereinafter called the "Trustee") hereby acknowledges receipt from IRVING TRUST COMPANY, acting as agent for
UNITED BANK LTD., LALBAGH, EAST CHITTAGONG, EAST PAKISTAN
COLLECTION FDBC NO. 13/210 DATED 3/31/71
(hereinafter called the "Entruster") of the goods, documents or instruments listed below (which, together with the goods represented by said documents and all improvements or additions to or products of goods, are all hereinafter called the "Collateral") and hereby grants a security interest in favor of the Entruster in the Collateral and in contract rights relating thereto and in proceeds of both, and acknowledges that a security interest therein remains in, or will remain in, or has passed to, or will pass to, the Entruster.

Nature and Date of Document(s)/ Instrument(s)	Location of Mdse. i.e., Vessel, Car No. or Warehouse, etc.	Description and Quantity of Merchandise	Marks and Numbers
COMM. INV. BL/BILLINGS SPECIFICATIONS	"SS BULTARA"	40 ROLLS HESSIAN CLOTH	- VARIOUS

The aforesaid security interest acknowledged or granted hereby secures payment of any and all liabilities of the Trustee to the Entruster, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and renewals or extensions thereof, whether under letters of credit, acceptances, guaranties, promissory notes, or otherwise.

In consideration of the delivery thereof the Trustee agrees to hold the Collateral in trust for the Entruster and subject to its security interest, to be used promptly by the Trustee without expense to the Entruster for the following purpose(s) checked below but for no other purpose and without liberty to encumber the same or, unless hereafter expressly provided, to sell the same:—

- ☐ 1. To transfer to carrier (land, water or air).
- ☐ 2. To transfer to warehouse.
- ☐ 3. To deliver said goods to _____ who have/has agreed to purchase the same for $_____ payable in _____
- ☐ 4. To sell said goods, subject to the following limitations (if any).
- ☐ 5. To manufacture or process said goods and to sell the same, whether or not manufactured or processed.
- ☐ 6. To make customs entry.
- ☒ 7. To arrange for inspection by U.S. Food and Drug Administration and after passage of inspection, for such other purpose(s) as may be checked hereon or hereafter consented to in writing (whether by endorsement on the back hereof or otherwise) by the Entruster.
- ☐ 8. To procure documents for presentation or collection against Letter of Credit No.
- ☐ 9. To arrange for exchange of inland documents for ocean documents.
- ☐ 10. [*Instruments only*] To sell or exchange; or to present, collect, renew or procure registration of transfer.
- ☐ 11. [*Other*] (NOTE: *Any other purpose must be substantially equivalent to a purpose set forth in Section 9-304(5) of the Uniform Commercial Code or Section 2(3) of the Uniform Trust Receipts Act*)

The Trustee agrees to account to the Entruster by delivering to it or its agent, IRVING TRUST COMPANY, immediately upon the receipt thereof by the Trustee, the following, according to the purpose(s) for which the Collateral has been delivered to the Trustee as indicated above:—

1, 8 or 9: Proper and sufficient bills of lading in negotiable form satisfactory to the Entruster and related documents.

2 or 6: Proper and sufficient warehouse receipts in form satisfactory to the Entruster and related documents.

3, 4, or 5, or if any liberty of sale is stated under 10 above: The proceeds of the sale of the Collateral in whatever form received. If such proceeds are cash proceeds they shall be applied to or towards payment of the liabilities hereby secured. If such proceeds are notes, bills receivable, acceptances or in any form other than cash proceeds, they shall not be so applied by the Entruster until paid; the Entruster and its agent, IRVING TRUST COMPANY, however, shall have the option at any time to sell or discount such items and so apply, conditionally upon final payment of such items, the net proceeds thereof. The Entruster shall have full power to compromise and collect such proceeds in its own name or that of the Trustee.

7. Notification of passage or non-passage by U.S. Food and Drug Administration with payment of $14,441.90 for such goods if passage effected and Trust Receipt not otherwise checked, unless Entruster approves continuance of Trust Receipt for other purposes. If passage is not effected, proper and sufficient bills of lading or warehouse receipts or equivalent documents. If notification of passage or non-passage is not received from U.S. Food and Drug Administration within fifteen days from date of arrival of steamer the Trustee is immediately to ascertain and notify the Entruster in writing of the status of the transaction.

10. [*Instruments Only*] The proceeds of the sale or exchange of the Collateral (cash and non-cash proceeds to be applied in the same manner as for items 3, 4 or 5 above), or the instruments as renewed or as newly registered, as the case may be. The Trustee agrees that unless delivery of such proceeds or instruments is made within twenty-one days from the date hereof, the instruments originally delivered to the Trustee hereunder shall be returned to the Entruster.

11. $14,441.90 PAYABLE AT 180 DAYS FROM DATE OF THIS TRUST RECEIPT.

The Trustee agrees that unless a proper financing statement or Statement of Trust Receipt Financing, covering the goods and/or documents as appropriate, has been filed within twenty-one days from the date hereof (or has previously been filed and will continue effective beyond such twenty-one day period) or the items required to be delivered to the Entruster or its agent, IRVING TRUST COMPANY, have been so delivered within such twenty-one day period, the documents originally delivered to the Trustee hereunder shall be returned to the Entruster by delivery to its agent, IRVING TRUST COMPANY. If the Uniform Commercial Code of any State in which any relevant financing statement is to be filed so permits, the Trustee hereby authorizes the Entruster, or its agent, IRVING TRUST COMPANY, to sign and file such financing statement.

(over)

The Trustee agrees to pay all expenses and charges in connection with the Collateral and any proceeds thereof, and at all times while the same are in its hands to hold the Collateral and proceeds separate and distinct from any property of the Trustee and readily capable of identification and to show such separation in all its records and entries.

The Trustee agrees to keep the Collateral at all times fully insured, at the Trustee's expense, in favor of and to the satisfaction of the Entruster, and its agent, IRVING TRUST COMPANY, against loss or damage by fire, theft and any other risks to which the same may be subject, and the proceeds of insurance received for any loss or damage shall be subject to the trust hereof in the same manner as the Collateral itself. The Trustee further agrees to deliver policies or certificates of such insurance to IRVING TRUST COMPANY, as agent for the Entruster, upon demand.

The Entruster or its agent, IRVING TRUST COMPANY, may at any time, without notice or demand, cancel this trust and/or declare all liabilities secured hereby immediately due and payable and this agreement in default, and thereafter the Entruster shall have, in any jurisdiction where enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code of New York, including, without limitation thereto, the right to take possession of the Collateral and any proceeds thereof, wherever and in whatever form they may be, and for that purpose the Entruster or said agent may, so far as the Trustee can give authority therefor, enter upon any premises on which the Collateral or any proceeds thereof may be situated and remove the same therefrom. The Entruster or said agent may require the Trustee to make the Collateral available to the Entruster or said agent at a place to be designated by the Entruster or said agent which is reasonably convenient to both parties. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Entruster or said agent shall give the Trustee five days' prior written notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. The Trustee agrees to pay all expenses of retaking, holding, preparing for sale, selling or the like, including the Entruster's and said agent's reasonable attorneys' fees and legal expenses. If the Uniform Trust Receipts Act applies, as to articles manufactured by style or model, the Trustee's interest therein may be forfeited, at the election of the Entruster or its agent, IRVING TRUST COMPANY, in the event of any default on the part of the Trustee, against cancellation to the extent and as provided by law of the Trustee's then remaining indebtedness with respect to such articles.

The Trustee agrees to deliver to the Entruster and its agent, IRVING TRUST COMPANY, on demand accurate records and copies of all accounts with respect to the Collateral or proceeds thereof and to execute any assignments or other documents in connection therewith which the Entruster and said agent may require, the Trustee hereby covenanting that there shall be no offsets or credits against any claims or accounts constituting proceeds of the Collateral and guaranteeing payment of said claims and accounts in full.

Neither the Entruster nor its agent, IRVING TRUST COMPANY, shall be responsible for the correctness, validity or genuineness of any documents referred to herein or for the existence, character, quantity, quality, condition, value or delivery of any goods purported to be represented thereby.

No waiver of any rights or powers of the Entruster or consent by it shall be valid unless in writing signed by the Entruster. The rights and powers herein given the Entruster are in addition to all others however arising. This agreement shall be binding upon the Trustee, and the heirs, executors, administrators, successors and assigns of the Trustee, and shall inure to the benefit of, and be enforceable by, the Entruster, and its successors and assigns.

If this Trust Receipt is signed by more than one person, it shall be the joint and several obligation of such persons.

(Give sufficient information to identify transaction)

T/R #71/434 F878P

due 3/14/72

PAKIAM INC. Trustee

By _____ (Authorized Signature)

555 FIFTH AVE., NEW YORK, N.Y. 10017 Address

95/00 UCC (4-67)

PAY TO THE ORDER OF ANY BANK, BANKER OR TRUST COMPANY
All Endorsements Guaranteed
MAR-31972
IRVING TRUST COMPANY
1-67

JA132

TRUST RECEIPT

New York OCTOBER 28.1971 BL

The undersigned (hereinafter called the "Trustee") hereby acknowledges receipt from IRVING TRUST COMPANY, acting as agent for UNITED BANK LTD, KARACHI OFFICE, KARACHI, PAKISTAN
COLL # FDBC 13/237 DATED 10/13/71
(hereinafter called the "Entruster") of the goods, documents or instruments listed below (which, together with the goods represented by said documents and all improvements or additions to or products of goods, are all hereinafter called the "Collateral") and hereby grants a security interest in favor of the Entruster in the Collateral and in contract rights relating thereto and in proceeds of both, and acknowledges that a security interest therein remains in, or will remain in, or has passed to, or will pass to, the Entruster.

Nature and Date of Document(s)/ Instrument(s)	Location of Mdse. i.e., Vessel, Car No. or Warehouse, etc.	Description and Quantity of Merchandise	Marks and Numbers
572 INVOICES 312 B/LADINGS 260 MISC DOCUMENTS	"ARISTONIKOS"	535 ROLLS HESSIAN CLOTH	VARIOUS

The aforesaid security interest acknowledged or granted hereby secures payment of any and all liabilities of the Trustee to the Entruster, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and renewals or extensions thereof, whether under letters of credit, acceptances, guaranties, promissory notes, or otherwise.

In consideration of the delivery thereof the Trustee agrees to hold the Collateral in trust for the Entruster and subject to its security interest, to be used promptly by the Trustee without expense to the Entruster for the following purpose(s) checked below but for no other purpose and without liberty to encumber the same or, unless hereafter expressly provided, to sell the same:—

- ☐ 1. To transfer to carrier (land, water or air).
- ☐ 2. To transfer to warehouse.
- ☐ 3. To deliver said goods to _____ who have/has agreed to purchase the same for $_____ payable in _____
- ☐ 4. To sell said goods, subject to the following limitations (if any):
- ☐ 5. To manufacture or process said goods and to sell the same, whether or not manufactured or processed.
- ☐ 6. To make customs entry.
- ☐ 7. To arrange for inspection by U.S. Food and Drug Administration and after passage of inspection, for such other purpose(s) as may be checked hereon or hereafter consented to in writing (whether by endorsement on the back hereof or otherwise) by the Entruster.
- ☐ 8. To procure documents for presentation or collection against Letter of Credit No.
- ☐ 9. To arrange for exchange of inland documents for ocean documents.
- ☐ 10. [*Instruments only*] To sell or exchange; or to present, collect, renew or procure registration of transfer.
- ☒ 11. [*Other*] (NOTE: *Any other purpose must be substantially equivalent to a purpose set forth in Section* 9-304(5) *of the Uniform Commercial Code or Section* 2(3) *of the Uniform Trust Receipts Act.*)

The Trustee agrees to account to the Entruster by delivering to it or its agent, IRVING TRUST COMPANY, immediately upon the receipt thereof by the Trustee, the following, according to the purpose(s) for which the Collateral has been delivered to the Trustee as indicated above:—

1, 8 or 9: Proper and sufficient bills of lading in negotiable form satisfactory to the Entruster and related documents.

2 or 6: Proper and sufficient warehouse receipts in form satisfactory to the Entruster and related documents.

3, 4, or 5, or if any liberty of sale is stated under 10 above: The proceeds of the sale of the Collateral in whatever form received. If such proceeds are cash proceeds they shall be applied to or towards payment of the liabilities hereby secured. If such proceeds are notes, bills receivable, acceptances or in any form other than cash proceeds, they shall not be so applied by the Entruster until paid; the Entruster and its agent, IRVING TRUST COMPANY, however, shall have the option at any time to sell or discount such items and so apply, conditionally upon final payment of such items, the net proceeds thereof. The Entruster shall have full power to compromise and collect such proceeds in its own name or that of the Trustee.

7. Notification of passage or non-passage by U.S. Food and Drug Administration with payment of $_____ for such goods if passage effected and Trust Receipt not otherwise checked, unless Entruster approves continuance of Trust Receipt for other purposes. If passage is not effected, proper and sufficient bills of lading or warehouse receipts or equivalent documents. If notification of passage or non-passage is not received from U.S. Food and Drug Administration within fifteen days from date of arrival of steamer the Trustee is immediately to ascertain and notify the Entruster in writing of the status of the transaction.

10. [*Instruments Only*] The proceeds of the sale or exchange of the Collateral (cash and non-cash proceeds to be applied in the same manner as for items 3, 4 or 5 above), or the instruments as renewed or as newly registered, as the case may be. The Trustee agrees that unless delivery of such proceeds or instruments is made within twenty-one days from the date hereof, the instruments originally delivered to the Trustee hereunder shall be returned to the Entruster.

11. "TRUSTEE UNDERTAKES TO PAY IRVING TRUST COMPANY, FOR ACCOUNT OF UNITED BANK LTD, CHITTAGONG $171,093.01 180 DAYS AFTER DATE OF THIS TRUST RECEIPT.

The Trustee agrees that unless a proper financing statement or Statement of Trust Receipt Financing, covering the goods and/or documents as appropriate, has been filed within twenty-one days from the date hereof (or has previously been filed and will continue effective beyond such twenty-one day period) or the items required to be delivered to the Entruster or its agent, IRVING TRUST COMPANY, have been so delivered within such twenty-one day period, the documents originally delivered to the Trustee hereunder shall be returned to the Entruster by delivery to its agent, IRVING TRUST COMPANY. If the Uniform Commercial Code of any State in which any relevant financing statement is to be filed so permits, the Trustee hereby authorizes the Entruster, or its agent, IRVING TRUST COMPANY, to sign and file such financing statement.

(over)

The Trustee agrees to pay all expenses, charges in connection with the Collateral and any proceeds thereof, and at all times while the same are in its hands to hold the Collateral and proceeds separate and distinct from any property of the Trustee and readily capable of identification and to show such separation in all its records and entries.

The Trustee agrees to keep the Collateral at all times fully insured, at the Trustee's expense, in favor of and to the satisfaction of the Entruster, and its agent, IRVING TRUST COMPANY, against loss or damage by fire, theft and any other risks to which the same may be subject, and the proceeds of insurance received for any loss or damage shall be subject to the trust hereof in the same manner as the Collateral itself. The Trustee further agrees to deliver policies or certificates of such insurance to IRVING TRUST COMPANY, as agent for the Entruster, upon demand.

The Entruster or its agent, IRVING TRUST COMPANY, may at any time, without notice or demand, cancel this trust and/or declare all liabilities secured hereby immediately due and payable and this agreement in default, and thereafter the Entruster shall have, in any jurisdiction where enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code of New York, including, without limitation thereto, the right to take possession of the Collateral and any proceeds thereof, wherever and in whatever form they may be, and for that purpose the Entruster or said agent may, so far as the Trustee can give authority therefor, enter upon any premises on which the Collateral or any proceeds thereof may be situated and remove the same therefrom. The Entruster or said agent may require the Trustee to make the Collateral available to the Entruster or said agent at a place to be designated by the Entruster or said agent which is reasonably convenient to both parties. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Entruster or said agent shall give the Trustee five days' prior written notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. The Trustee agrees to pay all expenses of retaking, holding, preparing for sale, selling or the like, including the Entruster's and said agent's reasonable attorneys' fees and legal expenses. If the Uniform Trust Receipts Act applies, as to articles manufactured by style or model, the Trustee's interest therein may be forfeited, at the election of the Entruster or its agent, IRVING TRUST COMPANY, in the event of any default on the part of the Trustee, against cancellation to the extent and as provided by law of the Trustee's then remaining indebtedness with respect to such articles.

The Trustee agrees to deliver to the Entruster and its agent, IRVING TRUST COMPANY, on demand accurate records and copies of all accounts with respect to the Collateral or proceeds thereof and to execute any assignments or other documents in connection therewith which the Entruster and said agent may require, the Trustee hereby covenanting that there shall be no offsets or credits against any claims or accounts constituting proceeds of the Collateral and guaranteeing payment of said claims and accounts in full.

Neither the Entruster nor its agent, IRVING TRUST COMPANY, shall be responsible for the correctness, validity or genuineness of any documents referred to herein or for the existence, character, quantity, quality, condition, value or delivery of any goods purported to be represented thereby.

No waiver of any rights or powers of the Entruster or consent by it shall be valid unless in writing signed by the Entruster. The rights and powers herein given the Entruster are in addition to all others however arising. This agreement shall be binding upon the Trustee, and the heirs, executors, administrators, successors and assigns of the Trustee, and shall inure to the benefit of, and be enforceable by, the Entruster, and its successors and assigns.

If this Trust Receipt is signed by more than one person, it shall be the joint and several obligation of such persons.

(Give sufficient information to identify transaction)

T/R NO. 71/493 F385P

due 4/26/72

PAK AM INC. Trustee

By (Authorized Signature)

555 FIFTH AVE, NEW YORK, N.Y. 10017

Address

95700 UCC (1-66)

TRUST RECEIPT

New York NOVEMBER 4, 1971 BL

The undersigned (hereinafter called the "Trustee") hereby acknowledges receipt from IRVING TRUST COMPANY, acting as agent for UNITED BANK LTD. LALDIGHI EAST, CHITTAGONG, EAST PAKISTAN COLL # EDBC 13/240 DATED 10/23/71 (hereinafter called the "Entruster") of the goods, documents or instruments listed below (which, together with the goods represented by said documents and all improvements or additions to or products of goods, are all hereinafter called the "Collateral") and hereby grants a security interest in favor of the Entruster in the Collateral and in contract rights relating thereto and in proceeds of both, and acknowledges that a security interest therein remains in, or will remain in, or has passed to, or will pass to, the Entruster.

Nature and Date of Document(s)/ Instrument(s)	Location of Mdse. i.e., Vessel, Car No. or Warehouse, etc.	Description and Quantity of Merchandise	Marks and Numbers
70 COMM INV. 22 ORIGINAL - B/LADING 23 COPIES 33 SPECIFICATION	S/S "HANSEER	111 ROLLS HESSIAN CLOTH	VARIOUS

The aforesaid security interest acknowledged or granted hereby secures payment of any and all liabilities of the Trustee to the Entruster, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and renewals or extensions thereof, whether under letters of credit, acceptances, guaranties, promissory notes, or otherwise.

In consideration of the delivery thereof the Trustee agrees to hold the Collateral in trust for the Entruster and subject to its security interest, to be used promptly by the Trustee without expense to the Entruster for the following purpose(s) checked below but for no other purpose and without liberty to encumber the same or, unless hereafter expressly provided, to sell the same.—

- ☐ 1. To transfer to carrier (land, water or air).
- ☐ 2. To transfer to warehouse.
- ☐ 3. To deliver said goods to _____ who have/has agreed to purchase the same for $_____ payable in _____
- ☐ 4. To sell said goods, subject to the following limitations (if any):
- ☐ 5. To manufacture or process said goods and to sell the same, whether or not manufactured or processed.
- ☐ 6. To make customs entry.
- ☐ 7. To arrange for inspection by U.S. Food and Drug Administration and after passage of inspection, for such other purpose(s) as may be checked hereon or hereafter consented to in writing (whether by endorsement on the back hereof or otherwise) by the Entruster.
- ☐ 8. To procure documents for presentation or collection against Letter of Credit No.
- ☐ 9. To arrange for exchange of inland documents for ocean documents.
- ☐ 10. [*Instruments only*] To sell or exchange; or to present, collect, renew or procure registration of transfer.
- ☐ 11. [*Other*] (NOTE: *Any other purpose must be substantially equivalent to a purpose set forth in Section 9-304(5) of the Uniform Commercial Code or Section 2(3) of the Uniform Trust Receipts Act.*)

The Trustee agrees to account to the Entruster by delivering to it or its agent, IRVING TRUST COMPANY, immediately upon the receipt thereof by the Trustee, the following, according to the purpose(s) for which the Collateral has been delivered to the Trustee as indicated above:—

1, 8 or 9: Proper and sufficient bills of lading in negotiable form satisfactory to the Entruster and related documents.

2 or 6: Proper and sufficient warehouse receipts in form satisfactory to the Entruster and related documents.

3, 4, or 5, or if any liberty of sale is stated under 10 above: The proceeds of the sale of the Collateral in whatever form received. If such proceeds are cash proceeds they shall be applied to or towards payment of the liabilities hereby secured. If such proceeds are notes, bills receivable, acceptances or in any form other than cash proceeds, they shall not be so applied by the Entruster until paid to the Entruster and its agent. IRVING TRUST COMPANY, however, shall have the option at any time to sell or discount such items and so apply, conditionally upon final payment of such items, the net proceeds thereof. The Entruster shall have full power to compromise and collect such proceeds in its own name or that of the Trustee.

7. Notification of passage or non-passage by U.S. Food and Drug Administration with payment of $37,884.22 for such goods if passage effected and Trust Receipt not otherwise checked, unless Entruster approves continuance of Trust Receipt for other purposes. If passage is not effected, proper and sufficient bills of lading or warehouse receipts or equivalent documents. If notification of passage or non-passage is not received from U.S. Food and Drug Administration within fifteen days from date of arrival of steamer the Trustee is immediately to ascertain and notify the Entruster in writing of the status of the transaction.

10. [*Instruments Only*] The proceeds of the sale or exchange of the Collateral (cash and non-cash proceeds to be applied in the same manner as for items 3, 4 or 5 above), or the instruments as renewed or as newly registered, as the case may be. The Trustee agrees that unless delivery of such proceeds or instruments is made within twenty-one days from the date hereof, the instruments originally delivered to the Trustee hereunder shall be returned to the Entruster.

11. $37,884.22 PAYABLE TO IRVING TRUST CO. FOR ACCOUNT OF UNITED BANK LTD LALDIGHI EAST, CHITTAGONG EAST PAKISTAN 180 DAYS FROM DATE OF THIS TRUST RECEIPT.

The Trustee agrees that unless a proper financing statement or Statement of Trust Receipt Financing, covering the goods and/or documents as appropriate, has been filed within twenty-one days from the date hereof (or has previously been filed and will continue effective beyond such twenty-one day period) or the items required to be delivered to the Entruster or its agent, IRVING TRUST COMPANY, have been so delivered within such twenty-one day period, the documents originally delivered to the Trustee hereunder shall be returned to the Entruster by delivery to its agent, IRVING TRUST COMPANY. If the Uniform Commercial Code of any State in which any relevant financing statement is to be filed so permits, the Trustee hereby authorizes the Entruster, or its agent, IRVING TRUST COMPANY, to sign and file such financing statement.

(over)

The Trustee agrees to pay all expenses and charges in connection with the Collateral and any proceeds thereof, and at all times while the same are in its hands to hold the Collateral and proceeds separate and distinct from any property of the Trustee and readily capable of identification and to show such separation in all its records and entries.

The Trustee agrees to keep the Collateral at all times fully insured, at the Trustee's expense, in favor of and to the satisfaction of the Entruster, and its agent, IRVING TRUST COMPANY, against loss or damage by fire, theft and any other risks to which the same may be subject, and the proceeds of insurance received for any loss or damage shall be subject to the trust hereof in the same manner as the Collateral itself. The Trustee further agrees to deliver policies or certificates of such insurance to IRVING TRUST COMPANY, as agent for the Entruster, upon demand.

The Entruster or its agent, IRVING TRUST COMPANY, may at any time, without notice or demand, cancel this trust and/or declare all liabilities secured hereby immediately due and payable and this agreement in default, and thereafter the Entruster shall have, in any jurisdiction where enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code of New York, including, without limitation thereto, the right to take possession of the Collateral and any proceeds thereof, wherever and in whatever form they may be, and for that purpose the Entruster or said agent may, so far as the Trustee can give authority therefor, enter upon any premises on which the Collateral or any proceeds thereof may be situated and remove the same therefrom. The Entruster or said agent may require the Trustee to make the Collateral available to the Entruster or said agent at a place to be designated by the Entruster or said agent which is reasonably convenient to both parties. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Entruster or said agent shall give the Trustee five days' prior written notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. The Trustee agrees to pay all expenses of retaking, holding, preparing for sale, selling or the like, including the Entruster's and said agent's reasonable attorneys' fees and legal expenses. If the Uniform Trust Receipts Act applies, as to articles manufactured by style or model, the Trustee's interest therein may be forfeited, at the election of the Entruster or its agent, IRVING TRUST COMPANY, in the event of any default on the part of the Trustee, against cancellation to the extent and as provided by law of the Trustee's then remaining indebtedness with respect to such articles.

The Trustee agrees to deliver to the Entruster and its agent, IRVING TRUST COMPANY, on demand accurate records and copies of all accounts with respect to the Collateral or proceeds thereof and to execute any assignments or other documents in connection therewith which the Entruster and said agent may require, the Trustee hereby covenanting that there shall be no offsets or credits against any claims or accounts constituting proceeds of the Collateral and guaranteeing payment of said claims and accounts in full.

Neither the Entruster nor its agent, IRVING TRUST COMPANY, shall be responsible for the correctness, validity or genuineness of any documents referred to herein or for the existence, character, quantity, quality, condition, value or delivery of any goods purported to be represented thereby.

No waiver of any rights or powers of the Entruster or consent by it shall be valid unless in writing signed by the Entruster. The rights and powers herein given the Entruster are in addition to all others however arising. This agreement shall be binding upon the Trustee, and the heirs, executors, administrators, successors and assigns of the Trustee, and shall inure to the benefit of, and be enforceable by, the Entruster, and its successors and assigns.

If this Trust Receipt is signed by more than one person, it shall be the joint and several obligation of such persons.

(Give sufficient information to identify transaction)

T/R NO. 71/503 F51GP

Date 5/30/72

PAK-AM INC.

Trustee

By

(Authorized Signature)

555 5TH AVE, NY. NY. 10017

Address

85/60 UCC (4-67)

TRUST RECEIPT

New York DECEMBER 3,1971 BL

The undersigned (hereinafter called the "Trustee") hereby acknowledges receipt from IRVING TRUST COMPANY, acting as agent for UNITED BANK LTD. LALDIGHI EAST CHITTAGONG, EATST PAKISTAN
COLL # EC 13246 DATED 11/15/71
(hereinafter called the "Entruster") of the goods, documents or instruments listed below (which, together with the goods represented by said documents and all improvements or additions to or products of goods, are all hereinafter called the "Collateral") and hereby grants a security interest in favor of the Entruster in the Collateral and in contract rights relating thereto and in proceeds of both, and acknowledges that a security interest therein remains in, or will remain in, or has passed to, or will pass to, the Entruster.

Nature and Date of Document(s)/ Instrument(s)	Location of Mdse. i.e., Vessel, Car No. or Warehouse, etc.	Description and Quantity of Merchandise	Marks and Numbers
8 ORIGINAL 8 COPIES / B/LADINGS 12 SPECIFICATIONS 34 COMM. INVOICES	"LONDON STATEMAN"	58 ROLLS HESSIAN CLOTH,	VARIOUS

The aforesaid security interest acknowledged or granted hereby secures payment of any and all liabilities of the Trustee to the Entruster, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and renewals or extensions thereof, whether under letters of credit, acceptances, guaranties, promissory notes, or otherwise.

In consideration of the delivery thereof the Trustee agrees to hold the Collateral in trust for the Entruster and subject to its security interest, to be used promptly by the Trustee without expense to the Entruster for the following purpose(s) checked below but for no other purpose and without liberty to encumber the same or, unless hereafter expressly provided, to sell the same:—

- ☐ 1. To transfer to carrier (land, water or air).
- ☐ 2. To transfer to warehouse.
- ☐ 3. To deliver said goods to _____ who have/has agreed to purchase the same for $ _____ payable in _____
- ☐ 4. To sell said goods, subject to the following limitations (if any):
- ☐ 5. To manufacture or process said goods and to sell the same, whether or not manufactured or processed.
- ☐ 6. To make customs entry.
- ☐ 7. To arrange for inspection by U.S. Food and Drug Administration and after passage of inspection, for such other purpose(s) as may be checked hereon or hereafter consented to in writing (whether by endorsement on the back hereof or otherwise) by the Entruster.
- ☐ 8. To procure documents for presentation or collection against Letter of Credit No.
- ☐ 9. To arrange for exchange of inland documents for ocean documents.
- ☐ 10. [*Instruments only*] To sell or exchange; or to present, collect, renew or procure registration of transfer.
- ☐ 11. [*Other*] (NOTE: *Any other purpose must be substantially equivalent to a purpose set forth in Section 9-304(5) of the Uniform Commercial Code or Section 2(3) of the Uniform Trust Receipts Act.*)

The Trustee agrees to account to the Entruster by delivering to it or its agent, IRVING TRUST COMPANY, immediately upon the receipt thereof by the Trustee, the following, according to the purpose(s) for which the Collateral has been delivered to the Trustee as indicated above:—

1, 8 or 9: Proper and sufficient bills of lading in negotiable form satisfactory to the Entruster and related documents.

2 or 6: Proper and sufficient warehouse receipts in form satisfactory to the Entruster and related documents.

3, 4, or 5, or if any liberty of sale is stated under 10 above: The proceeds of the sale of the Collateral in whatever form received. If such proceeds are cash proceeds they shall be applied to or towards payment of the liabilities hereby secured. If such proceeds are notes, bills receivable, acceptances or in any form other than cash proceeds, they shall not be so applied by the Entruster until paid; the Entruster and its agent, IRVING TRUST COMPANY, however, shall have the option at any time to sell or discount such items and so apply, conditionally upon final payment of such items, the net proceeds thereof. The Entruster shall have full power to compromise and collect such proceeds in its own name or that of the Trustee.

7. Notification of passage or non-passage by U.S. Food and Drug Administration with payment of $ $22,984.43 for such goods if passage effected and Trust Receipt not otherwise checked, unless Entruster approves continuance of Trust Receipt for other purposes. If passage is not effected, proper and sufficient bills of lading or warehouse receipts or equivalent documents. If notification of passage or non-passage is not received from U.S. Food and Drug Administration within fifteen days from date of arrival of steamer the Trustee is immediately to ascertain and notify the Entruster in writing of the status of the transaction.

10. [*Instruments Only*] The proceeds of the sale or exchange of the Collateral (cash and non-cash proceeds to be applied in the same manner as for items 3, 4 or 5 above), or the instruments as renewed or as newly registered, as the case may be. The Trustee agrees that unless delivery of such proceeds or instruments is made within twenty-one days from the date hereof, the instruments originally delivered to the Trustee hereunder shall be returned to the Entruster.

11.

$22,984.43 PAYABLE 180 DAYS AFTER DATE OF THIS TRUST RECEIPT.

The Trustee agrees that unless a proper financing statement or Statement of Trust Receipt Financing, covering the goods and/or documents as appropriate, has been filed within twenty-one days from the date hereof (or has previously been filed and will continue effective beyond such twenty-one day period) or the items required to be delivered to the Entruster or its agent, IRVING TRUST COMPANY, have been so delivered within such twenty-one day period, the documents originally delivered to the Trustee hereunder shall be returned to the Entruster by delivery to its agent, IRVING TRUST COMPANY. If the Uniform Commercial Code of any State in which any relevant financing statement is to be filed so permits, the Trustee hereby authorizes the Entruster, or its agent, IRVING TRUST COMPANY, to sign and file such financing statement.

(over)

The Trustee agrees to pay all expenses, charges in connection with the Collateral and all proceeds thereof, and at all times while the same are in its hands to hold the Collateral and proceeds separate and distinct from any property of the Trustee and readily capable of identification and to show such separation in all its records and entries.

The Trustee agrees to keep the Collateral at all times fully insured, at the Trustee's expense, in favor of and to the satisfaction of the Entruster, and its agent, IRVING TRUST COMPANY, against loss or damage by fire, theft and any other risks to which the same may be subject, and the proceeds of insurance received for any loss or damage shall be subject to the trust hereof in the same manner as the Collateral itself. The Trustee further agrees to deliver policies or certificates of such insurance to IRVING TRUST COMPANY, as agent for the Entruster, upon demand.

The Entruster or its agent, IRVING TRUST COMPANY, may at any time, without notice or demand, cancel this trust and/or declare all liabilities secured hereby immediately due and payable and this agreement in default, and thereafter the Entruster shall have, in any jurisdiction where enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code of New York, including, without limitation thereto, the right to take possession of the Collateral and any proceeds thereof, wherever and in whatever form they may be, and for that purpose the Entruster or said agent may, so far as the Trustee can give authority therefor, enter upon any premises on which the Collateral or any proceeds thereof may be situated and remove the same therefrom. The Entruster or said agent may require the Trustee to make the Collateral available to the Entruster or said agent at a place to be designated by the Entruster or said agent which is reasonably convenient to both parties. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Entruster or said agent shall give the Trustee five days' prior written notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. The Trustee agrees to pay all expenses of retaking, holding, preparing for sale, selling or the like, including the Entruster's and said agent's reasonable attorneys' fees and legal expenses. If the Uniform Trust Receipts Act applies, as to articles manufactured by style or model, the Trustee's interest therein may be forfeited, at the election of the Entruster or its agent, IRVING TRUST COMPANY, in the event of any default on the part of the Trustee, against cancellation to the extent and as provided by law of the Trustee's then remaining indebtedness with respect to such articles.

The Trustee agrees to deliver to the Entruster and its agent, IRVING TRUST COMPANY, on demand accurate records and copies of all accounts with respect to the Collateral or proceeds thereof and to execute any assignments or other documents in connection therewith which the Entruster and said agent may require, the Trustee hereby covenanting that there shall be no offsets or credits against any claims or accounts constituting proceeds of the Collateral and guaranteeing payment of said claims and accounts in full.

Neither the Entruster nor its agent, IRVING TRUST COMPANY, shall be responsible for the correctness, validity or genuineness of any documents referred to herein or for the existence, character, quantity, quality, condition, value or delivery of any goods purported to be represented thereby.

No waiver of any rights or powers of the Entruster or consent by it shall be valid unless in writing signed by the Entruster. The rights and powers herein given the Entruster are in addition to all others however arising. This agreement shall be binding upon the Trustee, and the heirs, executors, administrators, successors and assigns of the Trustee, and shall inure to the benefit of, and be enforceable by, the Entruster, and its successors and assigns.

If this Trust Receipt is signed by more than one person, it shall be the joint and several obligation of such persons.

(Give sufficient information to identify transaction)

T/R NO. 73/530 F523P

PAK AM INC, Trustee

By _____
(Authorized Signature)

555 5TH AVE. NY NY 10027
Address

93/90 UCC (1-66)

(Filed April 2, 1975)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

SONALI BANK and NISHAT JUTE MILLS, LTD., :

73 Civ. 858 CLB

Plaintiffs, :

- against - :

IRVING TRUST COMPANY and COSMIC INTERNATIONAL, INC., :

:

Defendants.

----------X STIPULATION

NISHAT JUTE MILLS, LTD. and NATIONAL BANK OF PAKISTAN, :

: 73 Civ. 2736 CLB

Plaintiffs, :

- against - : (Consolidated Cases)

COSMIC INTERNATIONAL, INC., :

:

Defendant.

----------X

The undersigned hereby stipulate that, for this consolidated action only, and subject to all pertinent objections as to relevancy, the following statements (the headings and marginal comments are of no substantive effect) are true:

1. Identification of the Parties

A. National Bank of Pakistan ("NBP")

1. NBP is a banking company duly organized and existing in Pakistan under the National Bank of Pakistan Ordinance of 1949, Ordinance No. 19, of 1949. (A true copy of the Ordinance and By-Laws are annexed hereto as Exhibit 1.) Its Head Office and its registered office are and have at all times been in Karachi, Pakistan.

2. Since 1964, NBP has been qualified and licensed to do business as a bank in New York State. NBP maintains a branch at 99 Wall Street, New York, New York 10005.

3. During all material times, twenty-five percent of the shares of NBP were owned by the Government of Pakistan.

4. As provided by the Ordinance and the By-Laws (Exhibit 1), the names and residences of all shareholders of NBP were contained in the principal register maintained at the Head Office at Karachi, and NBP shareholders in the areas of Lahore, Dacca and Karachi also were registered in branch registers of NBP located in those three places. During all material times, a major portion of the remaining shareholders of NBP (other than the Government) were residents of West Pakistan; 9.5 percent were residents of East Pakistan.

5. Prior to December 16, 1971, NBP maintained approximately ~~250~~ 265 branches and sub-branches in East Pakistan (now known as Bangladesh), which were authorized by the State Bank of Pakistan. It ~~also~~ had one local office at each of the following locations: Dacca, Lahore and Karachi.

B. Sonali Bank

6. Sonali Bank is a banking company created by the order of March 26, 1972 entitled "Bangladesh Banks (Nationalisation) Order, 1972" (Exhibit 2 hereto) with its Head Office in Bangladesh.

C. Nishat Jute Mills, Ltd. ("Nishat")

7. Nishat Jute Mills, Ltd. is a private limited company which was incorporated under the federal laws of Pakistan (the Companies

Act of 1913) on December 16, 1955. (A true copy of the Certificate of Incorporation is annexed hereto as Exhibit 3.) Nishat had at all times maintained its head office and registered office in Karachi, Pakistan. It conducted business both in Karachi and Dacca, East Pakistan (now Bangladesh). Its only mill was located in East Pakistan (now Bangladesh).

8. Among the products sold by Nishat was jute carpet backing, manufactured by its mill in East Pakistan (now Bangladesh).

9. Nishat could do business in any part of Pakistan.

10. Prior to December 16, 1971, almost the entire shareholding of Nishat was owned by persons who were citizens and residents of the territory now constituting Pakistan.

11. Pursuant to the March 26, 1972 "Bangladesh Industrial Enterprises (Nationalisation) Order" (Exhibit 4 hereto), the Government of the People's Republic of Bangladesh ordered that all the shares of Nishat Jute Mills, Ltd. which had not already vested in the Government under any other law then in force were at once vested in the Government as sole shareholder, and its business, affairs and corporate powers were transferred to Bangladesh Jute Mills Corporation (see Paragraph 55 hereof).

D. Cosmic International, Inc.

12. Cosmic International, Inc. ("Cosmic") (formerly "Pak-Am, Inc.") is a corporation organized and existing under the laws of the State of Delaware. During the times material to this litigation, Cosmic had its principal office at 555 Fifth Avenue, New York, New York. Cosmic presently has its principal office in the State of Georgia.

13. Cosmic is not now and never has been a domiciliary, resident, citizen or national of East Pakistan, Pakistan or Bangladesh.

E. Irving Trust Company

14. Irving Trust Company ("Irving") is a banking corporation which transacts business in the Southern District of New York. Starting several years prior to 1971, and during all times material to this litigation, NBP through its Dacca local office, transmitted to Irving in New York shipping documents, drawn by Nishat on Cosmic, with instructions to Irving to release these documents to Cosmic in exchange for its acceptance of drafts.

15. On payment of these drafts, Irving was under written instruction to credit the account of NBP's Head Office, Karachi, maintained at Irving. In the normal course of business as established prior to NBP's loss of control of its Dacca office, Irving would have credited the amounts involved in the present litigation (pursuant to the drafts, true copies of which are annexed as Exhibit 5, and written instructions to Irving, true copies of which are annexed as Exhibit 6) to the account of NBP's Head Office, Karachi, with a copy of the credit advice to NBP's Dacca office. On December 16, 1971, Nishat owed NBP more than the amount of this claim. Had the events of December 1971 not taken place, in the normal course and pursuant to instruction, the proceeds would have been credited to Nishat's account with NBP maintained at its Dacca office, towards reduction of its indebtedness to NBP. *

* Plaintiff Sonali contends that the Dacca office of NBP made loans to Nishat independently and had its own right to repayment. Plaintiff NBP contends that it was the banking corporation making these loans, acting through its Dacca local office.

is to be filed so permits the Trustee hereby authorizes the Entruster, or its agent, IRVING TRUST COMPANY, to sign and file such financing statement.

(over)

F. Additional Facts Pertaining to NBP

16. A true copy of the Annual Reports of NBP for 1970 and 1971 is annexed as Exhibit 7 hereto.

17. All profits and losses by each branch of NBP would be pooled for the purpose of determining the profit or loss of NBP. Dividends were paid to all shareholders in the principal register of shareholders on an equal basis irrespective of which local shareholder register list they were listed in. Voting was done on an area basis as provided in the statute. It is the contention of NBP that all its shareholders were and are shareholders of one corporate body, whereas it is the contention of the Bangladesh Plaintiffs that the shareholders registered in the Dacca Register were the shareholders of the Dacca Local Area. Dividends were declared by the central board and disbursements of dividends were made through the respective Local Boards to the shareholders in their respective register of shareholders.

18. Advances to Nishat by NBP, which form the basis for entitlement to the proceeds in dispute in this litigation, were sanctioned by the Head Office after the recommendation of the Local Office. A true copy of the Head Office Memo Number 382 presented by NBP's Managing Director to the Central Board which was approved by the Central Board of NBP and the Head Office letter to the Dacca office communicating the decision of the Central Board are appended hereto as Exhibit 8.

II. Relations Between Cosmic and Nishat and Cosmic and Other Jute Mills

19. Nishat and Cosmic on or about July 3, 1967, entered into an arrangement whereby Cosmic agreed to serve as exclusive sales agent in the United States and Canada for jute carpet backing manufactured

by Nishat in East Pakistan, from products grown in East Pakistan. This arrangement is evidenced by a letter from the Nishat local office in Dacca to Cosmic in New York, accepted in New York.

20. On or about September 28, 1970, the arrangement was modified at the request of Cosmic. Cosmic ceased functioning as agent for Nishat and thereafter made purchases of jute carpet backing from Nishat pursuant to purchase orders. Cosmic agreed to remit to Nishat the price received for the jute carpet backing less its commission. This arrangement is evidenced by a letter from Cosmic in New York to the Nishat office in Dacca, accepted in Dacca.

21. Cosmic has not had any office or assets* in the territory now known as the People's Republic of Bangladesh at any time on or after March 26, 1971. Prior to the creation of the People's Republic of Bangladesh, Cosmic imported jute from Gulahmed Jute Mills, Hafis Jute Mills and R. R. Jute Mills, all of which had mills in what was then East Pakistan. Both prior to and after the creation of Bangladesh, Cosmic imported jute from Platinum Jute Mills, Bawany Jute Mills, Taj Jute Mills, Anowara Jute Mills and Nishat Jute Mills, all of which had mills in the territory now known as Bangladesh. Subsequent to the creation of Bangladesh, Cosmic imported jute from Nowapara Jute Mills and Bawa Jute Mills, both of which had mills in that country. All of the share-holdings of the foregoing mills which were subject to the jurisdiction of Bangladesh on March 26, 1972, if any, have been vested in the Government

* Plaintiffs in 73 Civ. 858 contend that because of the continuing purchases of jute by Cosmic from jute mills F.O.B. Chittagong or Chalna (ports located in what now is Bangladesh) Cosmic may have had property interests in the jute on the piers of those ports.

of Bangladesh and control of the management has been vested in a new corporation, Bangladesh Jute Mills Corporation (see Paragraph 55 hereof).

22. During the period of approximately May 30, 1971 to June 16, 1971, Mr. S. D. Keen, Cosmic's president, was present in the territory now known as Bangladesh to expedite the shipment of jute carpet backing orders previously placed with mills in that region. From approximately March 1, 1972 to March 31, 1972, Mr. Joel M. Allen, then a vice president of Cosmic, was present in Bangladesh to familiarize Cosmic with the current status of the jute carpet backing industry in the area and to expedite the processing and shipment by the new mill management and the Government orders previously placed by Cosmic.

III. The Specific Transactions in Issue

23. This litigation concerns five shipments of jute carpet backing from Nishat to Cosmic. Cosmic became obligated to pay for these goods by virtue of eighteen separate drafts, all of which were accepted by Cosmic in New York City between September 7, 1971 and December 3, 1971, and became due and payable between March and May 1972 (Exhibit 5). (True copies of the drafts are annexed; the original drafts are on deposit with the Court.)

24. All of the jute carpet backing which Cosmic had purchased from Nishat arrived in the United States prior to December 8, 1971, and prior to its arrival had been resold by Cosmic to customers in the United States.

25. The total proceeds due for these goods is $97,043.50, plus interest, no portion of which has been paid. The funds have been attached and are held subject to the order of this Court. Either NBP-Nishat (Karachi) or Sonali-Nishat (Bangladesh) is entitled to these funds.

26. The goods were loaded aboard five ships at Chittagong between July 23, 1971 and November 1, 1971, destined for Cosmic in Savannah, Georgia.

27. The drafts were accepted by Cosmic in New York on September 7, 1971, September 8, 1971, November 9, 1971 and December 3, 1971. The goods in each instance arrived in Savannah, Georgia within a few days after acceptance of the draft.

A. Goods Aboard S. S. Aristofilos

28. Pursuant to contracts or purchase orders dated February 12, 1971, February 23, 1971, February 25, 1971 and March 24, 1971, Cosmic purchased 58 rolls of jute carpet backing from Nishat. The agreed price for these goods was $16,603.64, F.O.B. Chittagong.

29. On July 23, 1971, the goods were loaded at Chittagong, on board the S.S. Aristofilos, a vessel owned or chartered by Brocklebanks' Cunard Service, destined for Savannah, Georgia. The ship left the territorial waters of Pakistan on July 24, 1971.

30. The bills of lading issued by the shipper provide that the jute carpet backing was consigned to the National Bank of Pakistan, Dacca.

31. On September 7, 1971, Cosmic was presented by Irving

Trust Company with four drafts totalling $16,608.64, on a printed form of Nishat Jute Mills, Limited, payable to the order of National Bank of Pakistan, Dacca, 180 days from sight. On September 7, 1971, Cosmic accepted these four drafts and received from Irving Trust Company the bills of lading for receipt of the goods. By its acceptance Cosmic promised to pay $16,608.64 on March 6, 1972.

32. On or about September 8, 1971, the goods arrived in Savannah, and Cosmic took delivery.

B. Goods Aboard S.S. Bulimba

33. Pursuant to contracts or purchase orders dated February 23, 1971, March 24, 1971 and July 21, 1971, Cosmic purchased 79 rolls of jute carpet backing from Nishat. The agreed price for these goods was $22,520.39, F.O.B. Chittagong.

34. On July 29, 1971, the goods were loaded at Chittagong, on board the S.S. Bulimba, a vessel owned or chartered by Brocklebanks' Cunard Service, destined for Savannah, Georgia. The ship left the territorial waters of Pakistan on August 9, 1971.

35. The bills of lading provide that the jute carpet backing was consigned to the National Bank of Pakistan, Dacca.

36. On September 8, 1971, Cosmic was presented by Irving Trust Company with nine drafts totalling $22,520.39 on a printed form of Nishat Jute Mills, Limited, payable to the order of National Bank of Pakistan, Dacca, 180 days from sight. On September 8, 1971, Cosmic accepted these nine drafts and received from Irving Trust Company the bills of lading for receipt of the goods. By its acceptance, Cosmic promised to pay $22,520.39, on March 6, 1972.

37. On September 3, 1971, the goods arrived in Savannah, and Cosmic took delivery.

C. Goods Aboard S.S. Aristonikos

38. Pursuant to a contract or purchase order dated February 23, 1971, Cosmic purchased two rolls of jute carpet backing from Nishat. The agreed price for these goods was $624.28, F.O.B. Chittagong.

39. On September 24, 1971, the goods were loaded at Chittagong, destined for Savannah, Georgia, on board the S.S. Aristonikos, a Greek vessel owned or chartered by Isthmian Lines, Inc., and a Panamanian flag vessel. The goods left the territorial waters of Pakistan on September 24, 1971.

40. The bill of lading issued by Isthmian provides that the jute carpet backing was consigned to the National Bank of Pakistan, Dacca.

41. On November 2, 1971, Cosmic was presented by Irving Trust Company with a draft in the amount of $624.28, payable to the order of National Bank of Pakistan, Dacca, 180 days from sight. On November 9, 1971, Cosmic accepted this bill and received from Irving Trust Company the bill of lading for receipt of the goods. By its acceptance, Cosmic promised to pay $624.28 on May 8, 1972.

42. On or about November 12, 1971, the goods arrived in Savannah, and Cosmic took delivery.

D. Goods Aboard S. S. Steel Navigator

43. Pursuant to a contract or purchase order dated February 23, 1971, Cosmic purchased 76 rolls of jute carpet backing from Nishat. The agreed price was $22,648.41, F.O.B. Chittagong.

44. On October 5, 1971, the goods were loaded at Chittagong, on board the S.S. Steel Navigator, an American flag vessel owned by Isthmian Lines, Inc., destined for Savannah, Georgia. The goods left the territorial waters of Pakistan on October 9, 1971.

45. The bill of lading provides that the jute carpet backing was consigned to the National Bank of Pakistan, Dacca.

46. On November 9, 1971, Cosmic was presented by Irving Trust Company with a draft in the amount of $22,648.41, payable to the order of National Bank of Pakistan, Dacca, 180 days from sight. On November 9, Cosmic accepted this bill and received from Irving Trust Company the bill of lading for receipt of the goods. By its acceptance, Cosmic promised to pay $22,648.41 on May 8, 1972.

47. On or about November 12, 1971, the goods arrived in Savannah, and Cosmic took delivery.

E. Goods Aboard S.S. London Statesman

48. Pursuant to two contracts for purchase orders dated February 23, 1971 and one contract or purchase order dated July 21, 1971, Cosmic purchased one hundred thirteen rolls of jute carpet backing from Nishat. The agreed price for these goods was $34,541.78, F.O.B. Chittagong.

49. On November 11, 1971, the goods were loaded at Chittagong, on board the S.S. London Statesman, a British vessel owned or chartered by Isthmian Lines, Inc., destined for Savannah, Georgia.

50. The bills of lading issued by Isthmian provide that the jute carpet backing was consigned to the National Bank of Pakistan, Dacca.

51. On December 3, 1971, Cosmic was presented by Irving Trust Company with three drafts, in the aggregate amount of $34,541.78, payable to the order of National Bank of Pakistan, Dacca, 180 days from sight. On December 3, 1971, Cosmic accepted these drafts and received from Irving Trust Company the bills of lading for receipt of the goods. By its acceptance, Cosmic promised to pay $34,541.78 on May 31, 1972.

52. On or about December 7, 1971, the goods arrived in Savannah, and Cosmic took delivery.

IV. Events in Bangladesh

53. The Bangladesh Gazette of May 23, 1972 (a true copy of which is annexed hereto as Exhibit 9) published "The Proclamation of Independence", which it stated had been proclaimed and issued in Mujibhagar on April 10, 1971, which among other things (1) declared and instituted Bangladesh to be a sovereign People's Republic, (2) confirmed a declaration of independence previously made by Banga Bandhu Shiekh Mujibur Rahman, and (3) resolved that this "Proclamation of Independence" shall be deemed to have come into effect from the 26th day of March, 1971.** Plaintiffs NBP and Nishat-Karachi maintain that these statements are of no legal effect and that until December 16, 1971, East Pakistan remained a part of Pakistan.

54. On December 16, 1971, Pakistani troops in what is now the People's Republic of Bangladesh surrendered. Except for intervals irrelevant for the purposes of this case, NBP retained control** over its Dacca local office until December 10, 1971, when communications were disrupted.

** The extent of control, if any, is to be litigated.

55. On December 17, 1971, NBP advised all of its correspondent banks that it had cancelled all authority of the East Pakistan branches. NBP will attempt to locate a copy of this telegram, which would then be annexed hereto. By circular dated December 27, 1971, NBP confirmed such advised its correspondents that it had cancelled the authority of its officers, numbering 370, who were posted ~~in the branches~~ in East Pakistan.

56. By the February 28, 1972 "Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972", a true copy of which is annexed hereto as Exhibit 10, the Government of the People's Republic of Bangladesh ordered that all property owned by citizens of a state which was at war with the People's Republic of Bangladesh (namely, according to NBP Pakistan), at any time after March 25, 1971 was "abandoned property", to be vested in the Bangladesh Government, which should have power to administer, control, manage and dispose of it, by transfer or otherwise. No provision was made for payment of compensation to any previous owner of such "abandoned property", and paragraph 24 of the February 28, 1972 Order provided:

> "Anything done, any action taken or any order passed under this Order shall not be called in question in any Court."

There is provision set forth in the Order (Exhibit 10) for release of property which is found not to be abandoned property.

57. By the March 26, 1972 "Bangladesh Banks (Nationalisation) Order, 1972", a true copy of which is annexed hereto as Exhibit 2, the Government of the People's Republic of Bangladesh ordered that all assets, rights, powers, authorities, privileges and property, books and

records, liabilities and obligations of NBP in Bangladesh* immediately before the commencement of the Order were at once transferred to and vested in Sonali Bank, a new bank which was created by that Order and whose entire capital was vested in the Bangladesh Government.

Paragraph 8 of the Order provided:

> "8 (1) The Government shall give compensation to each existing bank for acquisition of such of its undertaking as has not already vested in Government by or under any law, and such compensation shall be distributed among the shareholders of the existing bank in the manner prescribed by rules made under this Order:
>
> Provided that the total compensation payable to an existing bank under this clause shall not exceed the total paid up value of the shares held by the shareholders, among whom such compensation is to be distributed.
>
> (2) The compensation payable under clause (1) shall be determined and paid in such form and manner as may be prescribed by rules made under this Order."

No further rules have been made under that Order regarding the payment of compensation. Paragraph 30 of the Order provided:

> "30. If any difficulty arises in giving effect to the provisions of this Order, the Government may make such Order, not inconsistent with the provisions of this Order, as may appear to it to be necessary for the purpose of removing the difficulty."

58. The Bangladesh plaintiffs claim that only NBP's shareholders registered in the branch register at Dacca are entitled to compensation under the "Bangladesh Banks (Nationalisation) Order, 1972" (Exhibit 2 hereto), and that the NBP shareholders registered in the branch registers at Karachi and Lahore are not entitled to any compensation.

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* Plaintiffs in 73 Civ. 356 claim the assets transferred to Sonali Bank included assets both inside and outside the territory of Bangladesh.

59. By the March 26, 1972 "Bangladesh Industrial Enterprises (Nationalisation) Order, 1972, a true copy of which is annexed hereto as Exhibit 4, the Government of the People's Republic of Bangladesh ordered that all the shares of Nishat Jute Mills Ltd. which had not already vested in the Government under any other law then in force were at once vested in the Government as sole shareholder, and its business, affairs and corporate powers were transferred to Bangladesh Jute Mills Corporation, a new corporation which was created by that Order and whose authorized share capital was to be subscribed by the Government in the manner determined by the Government. Paragraph 9 of the Order provided:

> "9. The Government shall pay in respect of the shares vested in the Government under Article 4 such compensation as may be determined by it:
>
> Provided that such compensation shall not exceed the paid-up value of such shares."

No compensation has in fact been paid to Pakistan citizens under the Order.

V. Diplomatic Relations

60. On or about April 4, 1972, the Government of the United States of America first recognized the Government of the People's Republic of Bangladesh. The parties are free to argue the legal effect, if any, of that recognition.

61. On February 22, 1974, Pakistan recognized the People's Republic of Bangladesh.

62. Until the date of this stipulation, there ~~were~~ have been no trade

relations or communications directly between the governments or citizens of the Republic of Pakistan and the People's Republic of Bangladesh. Any trade relations or communications would have to be through persons living in other countries.

VI. Non-payment

63. No part of the amounts owing under the sight drafts accepted by Cosmic have been paid to NBP-Nishat or Sonali-Nishat, although payment thereof has been duly demanded.

64. A sum exceeding the amount of $97,043.50, representing the proceeds of the sight drafts together with certain accrued interest is presently invested by Irving in a certificate of deposit issued by Irving in the name of "Cosmic International, Inc., subject to attachment by Sonali Bank and Nishat Jute Mills Ltd. and Court Orders of May 9 and May 23, 1972". Whichever plaintiffs prevail in this litigation would be entitled to recovery out of the funds held subject to attachment.

VII. Constitutional Provisions

65. Article 42 of the Constitution of the People's Republic of Bangladesh provides:

> "42. (1) Subject to any restriction imposed by law, every citizen shall have the right to acquire, hold, transfer or otherwise dispose of property, and no property shall be compulsorily acquired, nationalized or requisitioned, save by authority of law.
>
> (2) A law made under clause (1) shall provide for the acquisition, nationalization or requisition with or without compensation, and in a case where it provides for compensation, shall fix the amount or specify the principle on which, and the manner in which, the compensation is to be assessed and paid; but no such law shall be called

in question in any court, on the ground that it does not provide for compensation or that any provision in respect of such compensation is not adequate."

66. Article 24 of the Constitution of the Islamic Republic of Pakistan provides, inter alia:

"24. (1) No person shall be deprived of his property save in accordance with law.

(2) No property shall be compulsorily acquired or taken possession of, save for public purpose, and save by the authority of law which provides for compensation therefor and either fixes the amount of compensation or specifies the principles on and the manner in which the compensation is to be determined and given.

* * *

(4) The adequacy or otherwise of any compensation provided for by any such law as is referred to in this Article, or determined in pursuance thereof, shall not be called in question in any court."

New York, New York

October 18, 1974

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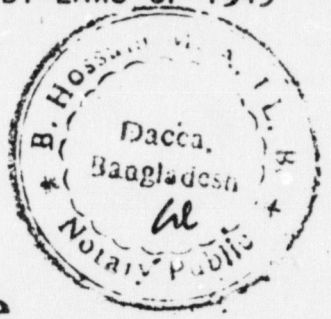
EXHIBITS ANNEXED TO FOREGOING STIPULATION OF FACTS
(Sonali Case)

EXHIBIT 1 - NATIONAL BANK OF PAKISTAN ORDINANCE AND BY-LAWS OF 1949



The National Bank of Pakistan

ORDINANCE, 1949

Published in the Gazette of Pakistan,
Extraordinary, dated the 9th November, 1949.
Amended upto the 27th July, 1970

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JA156

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THE NATIONAL BANK OF PAKISTAN ORDINANCE, 1949

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THE NATIONAL BANK OF PAKISTAN

[1]ORDINANCE NO. XIX OF 1949

AN ORDINANCE

TO CONSTITUTE A NATIONAL BANK OF PAKISTAN

Preamble

WHEREAS an emergency has arisen which renders it necessary to extend banking facilities generally and also to provide credit for agriculture and agricultural produce;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Ordinance may be called the National Bank of Pakistan Ordinance, 1949.

[2][(2) It extends to the whole of Pakistan.]

(3) It shall come into force at once.

Definitions.

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

---

[1]The Ordinance has been applied—

(*i*) to Baluchistan, with effect from the 9th day of November, 1949, *see* Gazette of P., 1952, Pt. I, p. 150;

(*ii*) in the Federated Areas of Baluchistan, *see ibid.*, 1953, Part I, p. 152; and

(*iii*) extended to the Leased Areas of Baluchistan, by the Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950).

It has also been extended to—

(*a*) the State of Bahawalpur, subject to certain modifications, *see* the Bahawalpur (Federal Laws) (Extension) Order, 1952 (G. G. O. 11 of 1952);

(*b*) the Baluchistan States Union, *see* the Baluchistan States Union (Federal Laws) (Extension) Order, 1953 (G. G. O. 4 of 1953); and

(*c*) the Khairpur State, *see* the Khairpur (Federal Laws) (Extension) Order, 1953 (G. G. O. 5 of 1953).

The Act has been and shall be deemed to have been brought into force in Gwadur with effect from the 8th September, 1958, by the Gwadur (Application of Central Laws) Ordinance, 1960 (37 of 1960), s. 2.

[2]Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3, and 2nd Sch., for the original sub-section (2) (with effect from the 14th October, 1955).

(*a*) "the bank" means the National Bank of Pakistan constituted by this Ordinance;

(*b*) "The Central Board" means the Central Board of Directors of the Bank;

(*c*) "Local Board" means a Local Board of Members at Karachi, Dacca or Lahore;

(*d*) "Director" means a Director for the time being of the Central Board;

(*e*) "Member" means a Member for the time being of a Local Board;

(*f*) "dividend" includes bonus;

(*g*) "goods" includes bullion, wares and merchandise;

(*h*) "general meeting" means the annual meeting of the shareholders of the Bank;

(*i*) "local meeting" means the annual meeting of the shareholders whose names are registered in a branch register;

(*j*) "meeting" includes an adjourned holding of a meeting;

(*k*) "prescribed" means prescribed by bye-laws made under this Ordinance;

[1][(*l*) "Managing Director" means the Managing Director of the Bank;]

(*m*) "special meeting" means a meeting of the shareholders of the Bank convened for transacting some particular business specified in the notice convening the meeting;

(*n*) "special local meeting" means a meeting of the shareholders whose names are registered in a branch register, convened for transacting some particular business specified in the notice convening the meeting;

(*o*) "special resolution" means a resolution passed at a special meeting; and

(*p*) "special local resolution" means a resolution passed at a special local meeting.

CHAPTER II

ESTABLISHMENT, INCORPORATION AND SHARE CAPITAL OF THE NATIONAL BANK OF PAKISTAN

Establishment and incorporation of the Bank.

3. (1) As soon as may be after the commencement of this Ordinance, there shall be constituted in accordance with the provisions of this Ordinance a bank to be called the National Bank of Pakistan to carry on the business of banking.

(2) The Bank shall be a body corporate having perpetual succession and a common seal, and shall by the said name sue and be sued.

---

[1] Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 2, for the original cl. (l).

Share capital.

4. (1) Subject to the provisions of this Ordinance the authorised [1][capital] of the Bank shall be [2][three crores] of rupees divided into [3][thirty lakh ordinary shares of ten] rupees each.

(2) Out of the said capital there shall, from time to time, be issued such number of shares and on such terms, if any, including the terms of brokerage and underwriting, as the Central Board may decide[4][,] [5]* * *

(3) The liability of the shareholders of the Bank shall be limited to the amount not fully paid up on their shares.

(4) The shareholders of the Bank may, subject to the sanction of the Central Government,[6]*** by special resolution, increase or reduce the capital of the Bank.

CHAPTER III

SHARES

Nature of shares.

5. The shares of the Bank shall be movable property and each share shall be distinguished by its appropriate number.

Principal register of shareholders.

6. The Bank shall maintain at its Head Office established under Section 11 a register, to be called the principal register, of all shareholders of the Bank, and shall enter therein such particulars as may be prescribed.

Branch registers.

7. (1) The Bank shall cause to be maintained at the offices of its Local Boards branch registers of the shareholders qualified and entitled to be registered therein, containing such particulars as may be prescribed.

(2) Subject to the provisions of this Ordinance shares shall be transferable from one branch register to another.

Qualifications of shareholders.

8. (1) No person shall be qualified to be registered as a shareholder who by reason of anything contained in any law for the time being in force is not competent to enter into any contract.

---

[1] Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 3, for "share capital".

[2] Subs. *ibid.*, for "six crores".

[3] Subs. *ibid.*, for "one hundred", and Subs. by National Bank of Pakistan (Amdt.) Ordinance 1970 (XIV of 1970), s. 2, for the words "six hundred thousand ordinary shares of fifty".

[4] Subs. by NBP (Amdt.) Ordinance 1960 (LII of 1960), s. 3, for the colon.

[5] Proviso omitted, *ibid.*

[6] The original words "and subject to the provision of the proviso to sub-section (2)," omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 3.

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(2) A person who subsequent to his registration, is discovered to have been not qualified as aforesaid at the time of registration shall not be entitled to exercise any of the rights of a shareholder otherwise than for the purpose of the sale of his shares under the orders of a competent court.

(3) (*a*) A shareholder shall be entitled to be registered in any area defined in sub-section (5) in which he ordinarily resides or has his principal place of business.

(*b*) A shareholder who neither resides nor has a place of business in the areas defined in sub-section (5) shall be registered in such branch register as the Central Board [1][may from time to time decide].

(*c*) No person shall be registered as a shareholder in more than one branch register.

(4) The Government of an Acceding State shall be qualified to be registered as a shareholder.

[2][(5) The area served by the branch register maintained at Karachi shall consist of the [3][Karachi,] Khairpur, Hyderabad, Quetta and Kalat Divisions; the area served by the branch register maintained at Lahore shall consist of Peshawar, Dera Ismail Khan, Rawalpindi, Lahore, Multan and Bahawalpur Divisions and the Special Areas of Chitral, Dir, Swat and Amb; and the area served by the branch register maintained at Dacca shall consist of East Pakistan.]

Central Government a shareholder.

9. Notwithstanding anything contained in section 8, the Central Government shall be a shareholder of the Bank and shall purchase at par not less than twenty-five per cent of the shares issued by the Bank from time to time.

No notice to be taken of trusts.

10. No notice of any trust, express, implied or constructive shall be entered on the principal or any branch register or be receivable by the Bank.

CHAPTER IV

MANAGEMENT

Head Office of the Bank.

11. The Head Office of the Bank shall be at Karachi.

---

[1] Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 4, for certain original words.

[2] Subs. *ibid.*, for the original sub-section (5), as amended by the Federal Laws (Revision and Declaration) Act, 1951 (XXVI of 1951), and the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960).

[3] Subs. by A. O., 1964, Art, 2 and Sch., for "Federal Territory of Karachi".

Central Board.

12. The general superintendence and direction of the affairs and business of the Bank shall be entrusted to the Central Board which may exercise all powers and do all such acts and things as may be exercised or done by the Bank and are not by this Ordinance expressly directed or required to be done by the Bank in general meeting.

Local Boards.

13. Three Local Boards shall be established for the areas mentioned in sub-section (5) of section 8, one each at Karachi, Dacca and Lahore, and shall without prejudice to the powers conferred by section 12, have power, within the prescribed limits, generally to transact all the usual business of the Bank.

Constitution of the Central Board.

[1]**14.** (1) The Central Board shall consist of the following Directors, namely:—

(*a*) the Managing Director appointed by the Central Government under section 16;

(*b*) [2][nine] Directors elected in local or special local meetings by the shareholders in the following manner, namely:—
the shareholders registered in a branch register maintained for an area mentioned in sub-section (5) of section 8, shall elect from amongst themselves such number of Directors for that area as may be decided before election by the Central Government having regard to the proportion which the share capital subscribed by the shareholders of that area bears to the whole:

PROVIDED THAT the shareholders registered in the branch register maintained at Dacca shall elect from amongst themselves at least two Directors;

(*c*) three Directors appointed by the Central Government:

PROVIDED THAT the total number of elected and appointed Directors representing the area for which the Dacca register is maintained shall not be less than three.

(2) The President of the Central Board shall be appointed by the Central Government from amongst the Directors.

Constitution of Local Boards.

15. A Local Board shall consist of the following members, namely:—

---

[1] For notification under this section, *see* Gaz. of P., 1953, Ext., p. 299.

[2] Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 5, for "eight".

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(*a*) The Managing Director [1]* * * :

PROVIDED THAT in the event of the inability of [2][Managing Director] to attend the meeting of a Local Board, [3][he] may nominate an officer of the Bank to attend as an ex-officio Member;

(*b*) One Member appointed by the Central Board from amongst the Directors elected by the shareholders registered in the branch register of that area;

(*c*) two Members appointed by the Central Government from the area in which the Local Board is established;

(*d*) [4][three] Members elected in a local or special local meeting from amongst themselves by the shareholders registered in the branch register of that area.

Managing Director and Deputy Managing Directors.

16. [5][(1) The Managing Director shall be appointed by the Central Government for a period not exceeding [6][five] years and on such salary and terms and conditions of service as the Central Government may determine:

PROVIDED THAT neither the salary nor the terms and conditions of service shall be varied to his disadvantage during his tenure of office[7][:]]

[8][PROVIDED FURTHER THAT the appointment may be terminated by six months' notice in writing given by the Central Government to him or by him to the Central Government.]

[9]* * *

(3) The Managing Director [10]* * * shall on the expiry of [11][his term] of office be eligible for re-appointment:

PROVIDED THAT no person shall hold office as Managing Director [12]* * * who is a member of the Central or a Provincial Legislature.

[13][(4) The Managing Director shall be the chief executive officer of the Bank and shall, subject to any bye-laws made in this behalf, direct and control, on behalf of the Central Board, the affairs of the Bank.]

---

[1] The original words "or a Deputy Managing Director" omitted by the National Bank of Pakistan (Amdt) Ordinance, 1960 (LII of 1960), s. 6.

[2] Subs. *ibid.*, for "either of them".

[3] Subs. *ibid.*, for "the Managing Director".

[4] Subs. *ibid.*, for "two".

[5] Subs. by the National Bank of Pakistan Ordinance (Amdt.) Act, 1953 (XXIX of 1953), s. 2, for the original sub-section (1).

[6] Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 7, for "three".

[7] Subs. *ibid.*, for full-stop.

[8] Second proviso added *ibid.*

[9] Sub-section (2) omitted *ibid.*

[10] The original words "and Deputy Managing Director" omitted *ibid.*

[11] Subs. *ibid.*, for "their respective terms".

[12] The original words "or Deputy Managing Director" omitted *ibid.*

[13] Added by the National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970) s. 3.

Qualifications and disqualifications of Directors and Members.

17. (1) No person not appointed by the Central Government to serve as a Director or Member shall be qualified to serve as a Director or Member unless he is a holder in his own right of unencumbered shares of the Bank to the nominal amount of ten thousand rupees at the least.

(2) No person shall be qualified to serve as a Director or Member—

[1]* * *

[2]**

(*b*) if he is a salaried officer of any Government [3][, whether within or without Pakistan, and is] not authorised by the Central Government to serve as a Director or Member[4][;]

[5][(*c*) if he has been convicted of an offence involving moral turpitude;

(*d*) if he was at any time in the service of the Bank and was dismissed or his services had been terminated by the Bank;

(*e*) if he is a Director of any commercial bank other than a bank sponsored or established by or under the authority of the Central Government or the State Bank of Pakistan for the development of industry or agriculture in the country, or a bank which is a society registered under the Co-operative Societies Act, 1912 or any other law for the time being in force in Pakistan relating to co-operative societies;

(*f*) if he is in the employment of any banking company, whether on salary or on commission, or is engaged in the performance of any continuous service for remuneration for any such company;

[6]**

(*g*) if he is for the time being disqualified for membership of an elective body under the Elective Bodies (Disqualification) Order, 1959 or under any other law for the time being in force[7][;]]

[8][(*h*) if having been a Director or Member, his office as such has been vacated, or deemed to be vacated under the provisions of clause (*h*) of sub-section (3); or

(*i*) if he has vacated his office as Director or, as the case may be, Member under clause (*i*) of sub-section (3) unless a period of three years has elapsed since the date he so vacated his office.]

---

[1] The original cl. (*a*) omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1962 (LXI of 1962), s.2.

[2] The original word "or" omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 8.

[3] Subs. *ibid.*, for "in Pakistan".

[4] Subs. *ibid.*, for full-stop.

[5] New cls. (*c*) to (*g*) added, *ibid.*

[6] The original word "or" omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970), s. 4.

[7] Subs. *ibid.*, for full-stop.

[8] New cls. (*h*) & (*i*) added, *ibid.*

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(3) The Office of a Director or Member shall be vacated—

(*a*) if the person holding it resigns his office or dies;

(*b*) if he accepts or holds any other office of profit under the Bank;

(*c*) if he is, or at any time has been, adjudicated an insolvent, or compounds with his creditors or suspends payment;

(*d*) if he is found lunatic, or becomes of unsound mind;

(*e*) if he has absented himself from three consecutive meetings of the Central or a Local Board, as the case may be, or from all such meetings for a continuous period of six months, whichever is longer, without leave of absence from the Board concerned;[1]*

(*f*) if he ceases to hold in his own right the amount of shares required to qualify him for the office[2][;][3]**

(*g*) if he incurs any of the disqualifications mentioned in sub-section (2)[4](;)]

[5][(*h*) if, in relation to the Bank, he has failed to pay any advance, loan or credit limit or any instalment thereof or interest thereon or any amount due on any guarantee, or to do or perform any act agreed or undertaken in writing to be done or performed by him, and such failure continues for a period of one month after notice in writing has been served on him by the Bank calling upon him to make the payment or to do or perform the act; or

(*i*) if he has been a Director or Member for a continuous period of six years from the date when he was first elected as such Director or Member or, as the case may be, was appointed by name and otherwise than by designation of office, as such Director or Member.]

(4) No two persons who are partners of the same mercantile firm, or who are directors of the same private company, or one of whom is the general agent of or holds a power of procuration from the other or from a mercantile firm of which the other is a partner, shall be eligible or qualified to serve as Directors of the Central Board, or as Members of the same Local Board at the same time[6][.]

[7]* * *

[8][(5) Nothing in sub-section (1), or in clause (*b*) of sub-section (2), or in clauses (*b*) and (*i*) of sub-section (3) shall apply to the Managing Director or an officer nominated by the Managing Director under the proviso to clause (*a*) of Section 15.]

---

[1] The original word "or" omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 8.

[2] Subs. *ibid.*, for full-stop.

[3] The word "or" and cl. (*g*) added *ibid.* and the word "or" omitted by National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970), s. 4.

[4] Subs., by the National Bank of Pakistan (Admt) Ordinance, 1970 (XIV of 1970). for full-stop s. 4.

[5] New clauses (*h*) & (*i*) added, *ibid.*

[6] Subs. *ibid.*, for the colon.

[7] Proviso omitted, *ibid.*

[8] New Sub-Section added *ibid.*

Removal of Directors and Members.

18. (1) The shareholders may, by a special resolution passed by the votes of shareholders holding in the aggregate more than one half of the paid-up capital for the time being, remove any Director, other than a Director appointed by the Central Government, before the expiration of his period of office, and appoint in his stead a qualified person who shall hold office subject to sub-section (2) of section 21.

(2) The shareholders on a branch register may, by a special local resolution passed by the votes of shareholders holding in the aggregate more than one half of the paid-up capital for the time being on the branch register concerned, remove any Member, other than a Member appointed by the Central Government or the Central Board, of the Local Board concerned, before the expiration of his period of office, and appoint in his stead a qualified person who shall hold office subject to sub-section (2) of section 21.

(3) Directors and Members appointed by the Central Government and the Central Board may be removed and replaced by other Directors and Members at the discretion of the appointing authorities concerned.

19. (*First Constitution of the Central and Local Boards*) *Omitted by the National Bank of Pakistan* (*Amdt.*) *Ordinance*, 1960 (*LII of* 1960), *s.* 9.

Terms of office of Directors and Members.

20. (1) [1][At every general meeting] one-third of the [2][elected] Directors and Members for the time being, or if their number is not three or a multiple of three then the number nearest to one-third, shall retire from office[3] [; but the retired Directors or Members shall, subject to the provisions of Section 17, be eligible for re-election.]

(2) The Directors and Members to retire at every general [4]*** meeting shall be those who have been longest in office, and as between those Directors and Members who are to retire and who have been in office for an equal length of time the Director and Member to retire shall in default of agreement amongst themselves be determined by lot, the length of time a Director or Member has been in office being subject to sub-section (2) of section 21, computed from his last election.

[5]* * *

[6][(3) The term of office of a Director or Member appointed by the Central Government, other than the Managing Director, shall be for such period

[1] Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 10, for certain original words.

[2] Ins. by the National Bank of Pakistan Ordinance (Admt.) Act, 1953 (XXIX of 1953), s. 3.

[3] The original full-stop subs. by semi-colon, words and figures by the National Bank of Pakistan (Amdt) Ordinance, 1970 (XIV of 1970), s. 5.

[4] The original words "and local" omitted by the N.B.P. (Amdt.) Ord. 1960 (LII of 1960)s. 10.

[5] Sub-Section 2A ins. *ibid.*, and Omitted by the N.B.P. (Amdt.) Ord. 1970 (XIV of 1970), s. 5.

[6] For notification under this sub-section, see Gaz., of P., 1953, Ext. p. 299 and Sub-Sec(3) subs., by the National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970), s. 5.

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not exceeding three years as the Central Government may fix at the time of his appointment and, notwithstanding the expiry of his term but subject to the provisions of Section 17, such Director or Member shall continue to hold office until his successor has been appointed and shall be eligible for re-appointment.]

[1][(4) A Member appointed by the Central Board shall cease to hold office when he ceases to be a Director.]

Vacancies.

21. (1) Any vacancy occurring on the Central or a Local Board by the death, resignation[2][, removal] or disqualification of any Director or Member shall be filled by the remaining Directors or Members, as the case may be, who shall co-opt a duly qualified person to fill the vacancy:

PROVIDED THAT where a vacancy occurs in the office of a Director or Member appointed by the Central Government or the Central Board, the vacancy shall be filled only by appointment by the Central Government or the Central Board, as the case may be.

(2) Any Director or Member so[3]*** appointed shall be deemed to have held office from the date on which the Director or Member in whose place he is[3]***appointed was[4]*** appointed, or, when such Director or Member was [3]***appointed under this sub-section, from the date on which his mediate or immediate predecessor was[3]*** appointed, as the case may be.

[5] [(3) Any Director or Member co-opted under sub-section (1) shall retire at the next general or local meeting, as the case may be, and the vacancy so occurring on the Central or a Local Board shall be filled by election as provided in clause (*b*) of sub-section (1) of section 14 or clause (*d*) of section 15, as the case may be.]

General and Special Meetings.

22. (1) In the first week of March in every year, or as soon thereafter as is convenient, a general meeting shall be held annually in rotation at the towns where the Local Boards are established, at such time as may be determined by the Central Board and at the meeting the [6][shareholders present shall be entitled to discuss the annual account, the report of the Central Board on the working of the Bank throughout the year, and the auditors' report on the annual balance sheet and accounts, made up to the preceding thirty-first day of December]:

---

1. Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 10, for the original sub-section (4) and again subs. by the National Bank of Pakistan (Amdt.) Ordinance 1970 (XIV of 1970), s. 5.

2 Ins. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s.11.

3 The original words "co-opted or" omitted *ibid.*

4 The original words "elected or" omitted *ibid.*

5 Sub-section (3) added, *ibid.*

6 Subs. *ibid.*, s. 12, for certain original words.

PROVIDED THAT the first general meeting shall be held at Karachi.

(2) Special meetings shall be convened and held in such manner and at such time and place as may be prescribed.

Local and Special Local Meetings.

23. Local and special local meetings shall be convened and held in such manner and at such time and place as may be prescribed.

Votes of shareholders.

24. (1) Every shareholder shall be entitled to attend any meeting and each shareholder who has been registered as such for a period of not less than three months prior to the date of such meeting shall when present in person and on a show of hands, have one vote; and on a poll each shareholder so registered for a like period shall have one vote for every ten shares[1][, subject to a maximum of [2][ten] votes]:

PROVIDED THAT no shareholder shall be entitled to vote at any meeting unless all calls or other sums presently payable by him in respect of shares of the Bank have been paid.

[3][(2) On a poll votes may be given either personally or by proxy, but the Central Government as a shorehelder may appoint any person to be present at any General Meeting and to vote on its behalf.]

CHAPTER V

BUSINESS OF THE BANK

Business which the Bank is authorised to transact.

25. The Bank is authorised to carry on and transact the several kinds of business hereinafter specified, namely:—

(1) The advancing and lending of money, and opening of dash credits upon the security of—

(*a*) stocks, funds and securities [4]*** in which a trustee is authorised to invest trust money by any law for the time being in force in Pakistan and shares of the State Bank of Pakistan;

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1 Ins. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 13.

2 Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970), s.6, for the word "fifty".

3 Sub-Section (2), Subs. *ibid.*

4 The original brackets and words "(other than immovable property)" omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 14.

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(*b*) debentures or other securities for money issued under the authority of any law for the time being in force in Pakistan by, or on behalf of, a port trust authority or a district board or a municipal board or committee or, with the sanction of the Central Government, debentures or other securities for money issued under the authority of the Government of an Acceding State;

(*c*) goods which, or the documents of title to which, are deposited with, or assigned to, the Bank as security for such advances, loans or credits;

(*d*) subject to such directions as may be issued by the Central Board, debentures of companies with limited liability;

(*e*) shares of companies with limited liability, in accordance with such directions in this regard as may be issued from time to time by the State Bank of Pakistan;

(*f*) goods which are hypothecated to the Bank as security for such advances, loans or credits[1]* * *;

(*g*) accepted bills of exchange and promissory notes endorsed by the payees and joint and several promissory notes of two or more persons or firms unconnected with each other in general partnership;[2]*

[3][(*h*) immovable property or documents of title relating thereto, subject to such directions as may be issued by the Central Board;]

[4][(*i*) subject to such directions as may be issued by the Central Board, tea crops:]

PROVIDED THAT any advances or loans which are guaranteed by the Central Government or any Provincial Government in Pakistan may be made without any specific security;

(2) the selling and realisation of proceeds of sale of any such promissory notes, debentures, stock receipts, bonds, annuities, stocks, shares, securities or goods which, or the documents of title to which, have been deposited with, or pledged, hypothecated, assigned or transferred to, the Bank as security for such advances, loans or credits or which are held by the Bank or over which the Bank is entitled to any lien or charge in respect of any such advance or loan or credit or any debt or claim of the Bank, and which have not been redeemed in due time in accordance with the terms and conditions (if any) of such deposit, pledge, hypothecation, assignment or transfer;

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1 The original comma and words, ",if so authorised by special directions of the Central Board " omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s.14.

2 The original word "and" omitted *ibid.*

3 Subs. *ibid.*, for the original sub-clause(h).

4 New sub-clause (i) added, *ibid.*

(3) the advancing and lending of money to Courts of Wards upon the security of estates in their charge or under their superintendence and the realisation of such advances or loans and any interest due thereon:

PROVIDED THAT no such advance or loan shall be made without the previous sanction of the Provincial Government concerned;

(4) the drawing, accepting, discounting, buying and selling of bills of exchange and other negotiable securities;

[1][(5) the investing of the funds of the Bank in, or the under-writing of, any stocks, funds, shares, securities, debentures, bonds or scripts or other securities for money issued by any public limited company or any corporation established by or under any law for the time being in force or under the authority of the Central Government or the State Bank of Pakistan, and converting the same into money when required, and altering, converting and transposing any such investment for or into any other of such investments;]

(6) the issuing of letters of credit;

(7) the buying and selling of gold and silver whether coined or uncoined;

(8) the receiving of deposits and keeping cash accounts on such terms as may be agreed on;

(9) the acceptance of the charge of plate, jewels, title-deeds or other valuable goods on such terms as may be agreed on;

(10) the [2][managing,] selling and realising of all property whether movable or immovable which may in any way come into the possession of the Bank in satisfaction or part satisfaction of any of its claims, and the acquisition and holding of, and generally the dealing with, any right, title or interest in any property movable or immovable which may be the Bank's security for any advance or loan or may be connected with any such security [3][:]

[4][PROVIDED THAT the Bank shall not take over the management of any such property except in pursuance of an agreement with the debtor or of an order, judgement or decree of a Court of competent jurisdiction;]

(11) the transacting of pecuniary agency business on commission and the entering into of contracts of indemnity, suretyship or guarantee with specific security or otherwise [5][, and the underwriting, participating in, and carrying out of the issue of any stock, shares, debentures and other securities];

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1 Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970), s. 7.

2 Ins. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 14.

3 Subs. *ibid.*, for semi-colon.

4 Proviso added *ibid.*

5 Added by the National Bank of Pakistan (Amdt.) Ordinance, 1962 (LXI of 1962), s. 3.

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(12) the administration of estates for any purpose whether as an executor, trustee or otherwise and the acting as agent on commission in the transaction of the following kinds of business, namely:—

(*a*) the buying, selling, transferring and taking charge of any securities or any shares in any public company;

(*b*) the receiving of the proceeds whether principal, interest or dividends, of any securities or shares;

(*c*) the remittance of such proceeds by public or private bills of exchange, payable either in Pakistan or elsewhere;

(13) the drawing of bills of exchange and the granting of letters of credit payable out of Pakistan;

(14) the buying of bills of exchange payble out of Pakistan;

(15) the borrowing of money for the purpose of the Bank's business, and the giving of security for money so borrowed by pledging assets or otherwise;

(16) the paying, receiving, collecting and remitting money, bullion and securities under any agreement with the State Bank of Pakistan as its agent on behalf of any Government in Pakistan, or undertaking and transacting any business which the State Bank of Pakistan may from time to time entrust to it;

(17) the establishing and discontinuing of branches and agencies;

(18) the acquiring, maintaining and transferring of the Bank's residential and business premises;

(19) the taking over of the business, including the capital, assets and liabilities of any other Bank, with the sanction of the Central Government;

(20) the granting of advances or loans to any other bank for the purpose of averting or facilitating its winding up; [1]* * *

[2]* * *

[3][(21) with the previous permission in writing of the State Bank of Pakistan,—

(*a*) the investing of the funds of the Bank in any bank incorporated outside Pakistan, and

(*b*) participating in the management and administration of any such bank in which the funds of the Bank have been invested; and]

(22) generally, the doing of all such matters and things as may be incidental or subsidiary to the transacting of the various kinds of business including foreign exchange business hereinbefore specified.

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[1] The word "and" added by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 14, and omitted by the National Bank of Pakistan (Amdt.) Ordinance, 1963 (V of 1963), s. 2.

[2] The original cl. (21) omitted by the N.B.P. (Amdt.) Ord. 1960 (LII of 1960), s. 14.

[3] New cl. (21) ins. by the N.B.P. (Admt.) Ord. 1963 (V of 1963), s.2.

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Business which the Bank is not authorised to transact.

26. The Bank shall not transact any kind of banking business other than those specified in section 25, and in particular—

[1][(1) the bank shall not make any advance or loan upon the security of its shares;]

(2) the Bank shall not discount or buy or advance or lend to any individual or partnership firm an amount exceeding in the whole at any one time such sum as may be prescribed;

(3) the Bank shall not discount or buy or advance or lend or open cash-credits on the security of any negotiable instrument of any individual or partnership firm, payable in the town or at the place where it is presented for discount, which does not carry on it the several responsibilities of at least two persons or firms unconnected with each other in general partnership:

PROVIDED THAT nothing in this section shall be deemed to prevent the Bank from [2][granting overdrafts and loans,] without security, to such extent as may be prescribed;

[3][(4) the Bank shall not grant to any person who has been elected or appointed as a Director or Member and for so long as he continues to hold that office any advance, loan, credit limit, guarantee or other facilities, or alter to his advantage the terms and conditions of any advance, loan, credit limit, guarantee or other facilities granted before his election or appointment as a Director or Member:

PROVIDED THAT nothing in this clause shall prevent the Bank from continuing or renewing any such advance, loan, credit limit, guarantee or other facilities as may have already been granted to such person before his election or appointment as a Director or Member.]

Exceptions.

[4][**26-A** Notwithstanding anything contained in sections 25 and 26 the Bank is authorised to—

(1) grant advances or loans to its officers and staff for the purpose of building residential houses, including the cost of land, on such security, including immovable property, and on such terms and conditions and for such periods as may be prescribed;

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1. Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1970 (XIV of 1970), s. 8.

2. Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960(LII of 1960), s.15, for "allowing any person who keeps an account with the Bank to overdraw such account".

3. Added by the National Bank of Pakistan (Amdt) Ordinance, 1970 (XIV of 1970), s. 8.

4. Subs. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 16 for section 26A which was ins. by the NBP Ordinance (Amdt.) Act., 1953 (XXIX of 1953), S. 4.

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[1][(1a) grant advances or loans, for any period exceeding one year but not exceeding five years, to such small and medium industries as may, from time to time, be specified by the Central Board on such terms and conditions as may be prescribed:

PROVIDED THAT the amount of advances and loans outstanding at any time under this clause shall not exceed five per cent of the total amount of bank deposits at such time;]

(2) grant or subsidise, from time to time, pensions, gratuities, bonuses or other funds created for the benefit of its officers and staff or their dependents;

(3) contribute to the promotion of research in banking and allied subjects; and

(4) donate funds for any charitable objects or to any charitable institutions or societies.]

CHAPTER VI

MISCELLANEOUS

Auditors.

27. (1) Not more than two auditors who shall be Registered Accountants shall be elected and their remuneration fixed at the general meeting. The auditors may be shareholders, but no Director or Member or other officer of the Bank shall be eligible during his continuance in office. Any auditor shall be eligible on quitting office for re-election.

(2) The first auditors of the Bank may be appointed and their remuneration fixed by the Central Board before the general meeting and if so appointed shall hold office only until the first general meeting. All auditors elected under this section shall severally be and continue to act as auditors until the first general meeting after their respective elections:

PROVIDED THAT if any casual vacancy occurs in the office of any auditor elected under this section, the vacancy may be filled by the Central Board.

Government Auditors.

28. Without prejudice to anything contained in the foregoing provisions, the Central Government may appoint such auditors as it thinks fit to examine and report upon the accounts of the Bank.

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[1]. New cl. (1a) ins. by the National Bank of Pakistan (Amdt.) Ordinance, 1962 (LXI of 1962), s.4.

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Rights and Duties of Auditors.

29. (1) Every auditor shall be supplied with a copy of the annual balance-sheet and statement of profit and loss and it shall be his duty to examine the same, with the accounts and vouchers relating thereto. Every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts and other documents of the Bank, and may, at the expense of the Bank if appointed by it, and at the expense of the Central Government if appointed by it, employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine any Director, or any Member or any other officer of the Bank.

(2) The auditors shall make a report to the shareholders or to the Central Government, as the case may be, upon the annual balance-sheet, the statement of profit and loss and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet and the statement of profit and loss are full and fair statements containing the prescribed particulars and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and in case they have called for any explanation or information from the Central Board or a Local Board, whether it has been given and whether it is satisfactory. Any such report made to the shareholders shall be read together with the report of the Central Board at the general meeting.

Acceptance of liabilities.

30. The Bank shall accept and honour all liabilities, obligations and commitments incurred and made by the Promoters Company, Limited, formed to provide for the establishment of the Bank in accordance with the rights and powers with which that Company, is invested by its Memorandum of Association.

Liquidation of the Bank, VII of 1913.

31. Nothing in the Companies Act, 1913, shall apply to the Bank, and the Bank shall not be placed in liquidation save by order of the Central Government, and in such manner and under such terms and conditions, including the terms as to calls on and forfeiture of shares, as the Central Government may by its order of liquidation direct.

Power of the Central Board to make bye-laws.

32. (1) The Central Board may, with the previous approval of the Central Government, make bye-laws not inconsistent with this Ordinance to provide for all matters for which provision is necessary or convenient for the purpose of giving effect to the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing provisions, such bye-laws may provide for all or any of the following matters, namely :—

(*i*) the maximum amounts which may be advanced or lent to, or for which bills may be discounted for or purchased from, any individual or partnership-firm with or without security;

(*ii*) the conditions subject to which alone advances may be made to Directors, Members or [1]*officers [2][or other staff] of the Bank, or the relatives of such Directors, Members or officers [2][or other staff] or to companies, firms or individuals with which or with whom such Directors, Members, officers [2][or other staff] or relatives are connected as partners, directors, managers, servants, shareholders or otherwise;

(*iii*) the manner in which and the conditions subject to which the Bank may take over the business, including the capital, assets and liabilities, of any other bank;

(*iv*) the granting of advances or loans to any other bank for the purpose of averting or facilitating its winding up;

(*v*) the procedure and manner in which the capital of the Bank may be increased or reduced;

(*vi*) the acquisition, maintenance and transfer of the Bank's residential and business premises;

(*vii*) the contents, maintenance, inspection and closure of the principal and branch registers of shareholders;

(*viii*) the books and accounts to be kept at the various offices of the Bank;

(*ix*) the balancing of accounts and ascertainment of profit and loss;

(*x*) the form and manner in which the balance-sheet and the statement of profit and loss shall be drawn up;

(*xi*) the determination and payment of dividend and transfer of profits to reserves;

(*xii*) the preparation and transmission of returns to the Registrar of Joint Stock Companies and to the Central Government;

(*xiii*) the evidentiary value, form, issue and renewal of certificates of shares;

(*xiv*) the calls on shares, the payment of such calls, joint and several liabilities of shareholders in respect of such calls, the Bank's lien on shares, the manner of its enforcement, forfeiture and the application of proceeds of sale;

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1. The word "other" omitted by the National Bank of Pakistan Ordinance (Amdt.) Act, 1953 (XXIX of 1953), s. 5.

2. Ins. *ibid.* s. 5.

(*xv*) the manner in which and the conditions subject to which shares may be allotted, held, transferred and transmitted and generally all matters relating to the rights and duties of shareholders;

(*xvi*) the manner in which general and special meetings shall be convened and held, the quorum thereat, the procedure to be followed at such meetings, the manner in which votes may be exercised and the appointment and election of Chairmen of such meetings;

(*xvii*) the manner in which local and special local meetings shall be convened and held, the quorum thereat, the procedure to be followed at such meetings, the manner in which votes may be exercised and the appointment and election of Chairmen of such meetings;

(*xviii*) the powers exercisable by local and special local meetings;

(*xix*) the holding and conduct of elections under this Ordinance;

(*xx*) the final decisions on doubts and of disputes regarding the qualifications of candidates or the validity of elections;

(*xxi*) the manner in which meetings of the Central and Local Boards shall be convened and held, their quorum, the procedure to be followed at such meetings, votes of Directors, Members and ex-officio members and the manner in which they may be exercised, and the appointment or/and election of Chairmen of such Boards;

(*xxii*) the effect of vacancies in the Central or Local Boards and of subsequent discovery of disqualifications of a Director or Member;

(*xxiii*) the obligations and immunities of Directors and Members;

(*xxiv*) the distribution of business amongst the Directors and Members and their remuneration, if any;

(*xxv*) the powers of the Local Boards and the limits within which they shall exercise such powers;

(*xxvi*) the delegation of any powers of the Central or Local Boards, to committees consisting of Directors or Members, as the case may be, and the conduct of business in such committees;

(*xxvii*) the establishment and discontinuance of branches and agencies in Pakistan or elsewhere and the nature and extent of the business any branch or agency may transact;

(*xxviii*) the recruitment of officers and staff of the Bank including the terms and conditions of their service, and the constitution and management of staff and superannuation funds for the officers and servants of the Bank;

(*xxix*) the authority to draw, accept, endorse and execute documents on behalf of the Bank;

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(*xxx*) the provision of common and official seals of the Bank and the manner and effect of their use;

(*xxxi*) the manner and form in which contracts binding on the Bank may be executed;

(*xxxii*) the conduct [1][, institution] and defence of legal proceedings and the manner of signing pleadings;

(*xxxiii*) the addresses of shareholders and the issue and service of notices;

(*xxxiv*) the service of notice on the Bank; and

(*xxxv*) generally, for the efficient conduct of the business, discharge of functions and management of the Bank.

33. [*Transitional provisions*] *Omitted by the National Bank of Pakistan (Amdt.) Ordinance*, 1960 (*LII of* 1960), *s.* 18.

KH. NAZIMUDDIN.
Governor-General.

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1. Ins. by the National Bank of Pakistan (Amdt.) Ordinance, 1960 (LII of 1960), s. 17.

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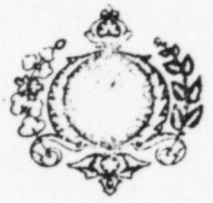
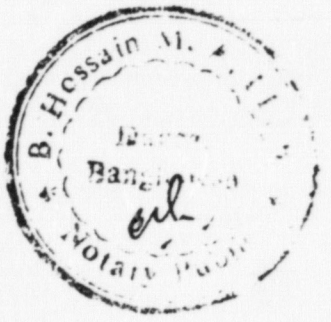
National Bank of Pakistan

(Constituted under Ordinance No. XIX of 1949)





BYE LAWS

Issued by the Central Board of Directors

(AUGUST 1970)

Price Re. 0.50

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NATIONAL BANK OF PAKISTAN

BYE-LAWS

Bangladesh National Archives, Dacca, Bangladesh

In exercise of the powers conferred by Section 32 of the National Bank of Pakistan Ordinance XIX of 1949, the Central Board of the National Bank of Pakistan has, with the previous approval of the Central Government, made the following bye-laws:

Definitions.

1. In these bye-laws unless there is anything repugnant in the subject or context;

(a) "the Ordinance" means the National Bank of Pakistan Ordinance 1949;

(b) Other words and expressions have the same meaning as in the Ordinance.

Maximum Limits of Advances.

2. (a) Except upon the security mentioned in clauses (a), (b) and (c) of sub-section (1) of Section 25 of the Ordinance the Bank shall not make advances or loans to, or discount bills for or purchase bills from, any individual or partnership firm of an amount exceeding in the aggregate at any one time twenty lakhs of rupees.

(b) Accounts may be overdrawn without security to the extent of rupees five lakhs provided that loans and overdrafts in excess of this limit may be made with prior approval of the Central Board of Directors of the Bank, to any foreign Government without Security.

Advances to Directors, Members, Officers, or Servants.

3. (a) No Director or Member shall sit, judge or vote on any matter connected with any business of the Bank in which he is personally concerned or on any motion respecting the advance or loan of money or otherwise giving credit to himself, his partner, co-trustee, servant or relative or to a firm, company or individual, with which or with whom such Director or Member is connected as partner, director, manager, servant, shareholder or otherwise.

(b) Directors and Members shall notify to the Bank the names of all companies in which they are interested and shall also declare such interest any time when an advance to any of the said companies is being considered.

(c) No advance shall be made without the sanction of the Central Board to the Managing Director and without the sanction of the Managing Director or officers authorised by him in this behalf to any other officer or servant of the Bank save on the security mentioned in clauses (a), (b), (c) and (e) of sub-section (1) of Section 25 of the Ordinance.

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Acquisition of Premises.

4. For the purpose of providing buildings and places for carrying on the business of the Bank, and for providing residences for its officers and servants, the Bank may acquire any interest in immovable property, and may sell, buy, exchange, let, furnish, repair, insure against fire and other risks or otherwise deal with such property in such manner as may be conducive to the interests of the Bank.

Contents, maintenance, inspection and closure of the Principal and Branch Registers.

5. (a) The Principal register of shareholders of the Bank shall be maintained at its Head Office at Karachi and shall contain in alphabetical order the name of every shareholder, his occupation and registered address, the branch register on which his shares are registered the number of shares standing in his name, the date on which he was registered on such branch register and the date on which he ceases to be a shareholder. The entries in this register shall be made from the statements received from the Local Boards under para (e) below.

(b) The branch registers of shareholders shall be maintained at the offices of the Local Boards and shall contain the following particulars in respect of the shareholders qualified to be registered therein:

(i) the name and occupation, if any, of each of such shareholders and a statement of the shares held by him, distinguishing each share by its number;

(ii) the address at which each shareholder is ordinarily resident or has his principal place of business;

(iii) the date on which each shareholder is registered as such, the manner in which he has acquired his shares and, except in the case of first allotment, the name of the previous holder of the shares and the register on which the shares were last entered;

(iv) the date on which any person ceases to be a shareholder and the name of the person to whom and the register to which the shares have been transferred.

(c) In the case of joint-holders of any shares, their names and other particulars required under this bye-law shall be grouped under the name of the first of such joint-holders.

(d) No person either singly or jointly with other, shall be registered as a shareholder in more than one branch register.

(e) A copy of every entry made in the branch register shall be forwarded immediately to the Head Office for entry in the Principal register.

(f) Except when closed under this bye-law, the Principal register or any branch register shall during business hours, and subject to such reasonable restrictions as the Bank may impose so that not less than two hours in each day shall be allowed for inspection be open to the inspection of any shareholder gratis.

(g) A shareholder shall not have the right himself to make a copy of any entry in any such register, but may, except when the register is closed, obtain a copy of any such register

or of any part thereof on prepayment therefor at the rate of one rupee for every hundred words or fractional part thereof

(h) The Central Board may, by giving notice by advertisement, close the principal or any branch register for any period not exceeding in the aggregate sixty days in each year. Registration of transfers of shares may be suspended during such periods of closure of registers.

Books and Accounts.

6. (a) Books showing the overall position of the Bank's business and accounts of the Bank shall be maintained at the Head Office and books showing the overall position of the Bank's business and accounts of the respective areas of the Local Board shall be maintained at the offices of the Local Boards and the usual and proper banking and account books shall be maintained at the branches and agencies of the bank, but the Central Board or the Managing Director may direct the maintenance of any additional ledger, register or book for use at any office, Branch or agency.

(b) Not more than two suspense accounts (i.e. accounts in which items which cannot be passed at once into their proper accounts are in the meantime debited or credited) shall be kept at any office or branch. Each branch shall forward monthly to the Local Board concerned a detailed statement of the suspense accounts kept showing all the items outstanding.

Returns.

7. (a) The Bank shall within thirty days from the date of the general meeting in each year file with the Registrar of Joint Stock Companies and transmit to the Central Government a copy of the principal register of shareholders.

(b) The Bank shall within two months from the date on which the annual accounts of the Bank are closed file with the Registrar of joint Stock Companies three copies and transmit to the Central Government one copy of the annual balance sheet and statement of profit and loss signed by a majority of Directors and certified by the auditors. A copy of the last audited balance sheet and statement of profit and loss shall be displayed at all offices of the Bank.

(c) From such date as the Central Government may determine a weekly statement of the Bank's affairs shall be compiled in the following form:

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Bal pri sh: ho to ce th pe ch: fo m of ce bx Lx hB o x t s fc a fr a u s n o p p d n e l l s e e t f

NATIONAL BANK OF PAKISTAN

Statement of Affairs as on..... ....

LIABILITIES	(In nearest thousands of Rupees)		ASSETS	(In nearest thousands of Rupees)	
1. CAPITAL:-			**1. CASH:-**		
(i) Authorised			(i) in hand		
(ii) Issued and subscribed ...			(ii) With State Bank of Pakista ...		
(iii) Called up			(iii) With other Banks		
(iv) Less Calls unpaid (if any) ...			**2. MONEY AT CALL AND SHORT NOTICE.**		
(v) Add amount on forfeited shares (if any)			**3. BULLION.**		
2. RESERVE LIABILITY OF SHARE-HOLDERS.			**4. INVESTMENTS:-**		
3. RESERVE FUND.			(i) Governments Securities including Treasury Bills ...		
4. DEPOSITS:-			(ii) Other Authorised Securities ...		
(i) Fixed and Short Term ...			**5. ADVANCES:-**		
(ii) Savings			(i) Loans		
(iii) Current			(ii) Cash Credits & Overdrafts ...		
(iv) Call Deposits			(iii) Bills Discounted & Purchased ...		
(v) Other Accounts			**6. LIABILITY OF CONSTITUENTS FOR ACCEPTANCES PER CONTRA.**		
5. BORROWINGS:-			**7. DEAD STOCK.**		
(i) From S B. P.			**8. SUNDRIES.**		
(ii) From Other Banks			Total Rs ...		
6. ACCEPTANCES FOR CONSTITU-ENTS PER CONTRA.					
7. SUNDRIES.					
Total Rs. ...					

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(4)

Share Certificates.

8. (a) A certificate issued under the official seal of the Bank specifying the shares held by any shareholder shall be *primafacie* evidence of the title of the shareholder to the shares therein specified.

(b) Every person whose name is entered as a shareholder in a branch register shall, without payment, be entitled to a certificate under the official seal of the Local Board concerned specifying the shares held by him and the amount paid thereon;

Provided that in respect of shares held jointly by several persons, the Bank shall not be bound to issue more than one certificate, and delivery of a certificate to one of several joint holders shall be sufficient delivery to all.

(c) A fee of one rupee per certificate shall be payable for the renewal of a certificate of shares which has become mutilated or has been lost or destroyed, or for the sub division of a share certificate.

Provided that a Local Board may refuse to issue a new certificate for a certificate which has become mutilated or has been lost or destroyed until the procedure prescribed by the Local Board with the previous approval of the Central Board has been followed and the indemnities demanded by the Local Board have been furnished.

Bank's lien, calls and forefeiture of shares.

9. (a) The Bank shall have a first and paramount lien on every share registered in the name of a shareholder (whether solely or jointly with others) and upon the proceeds of sale thereof for debts, liabilities and engagements solely or jointly with any other person to or with the Bank, whether the period for the payment, fulfilment or discharge thereof shall have actually arrived or not and such lien shall extend to all dividends from time to time declared in respect of such shares.

(b) The Bank may sell, in such manner, as it thinks fit any shares on which it has a lien, but no sale shall be made unless some money in respect of which the lien exists is presently payable nor until the expiration of fourteen days after a notice in writing stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable has been given to the registered holder for the time being of the share, or to the person entitled by reason of his death or insolvency to the share

(c) The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to like lien for sums not presently payable, as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

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(d) The Bank may, subject to the provisions of sub-section 2 of Section 4 of the Ordinance, from time to time, make calls upon the shareholders in respect of any moneys unpaid on their shares provided that no call shall be payable at less than two months from the last call; and each shareholder shall (subject to receiving at least one month's notice specifying the time of payment) pay to the Bank at the time so specified the amount called on his shares.

(e) The joint-holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

(f) If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest thereon at the rate of six per cent per annum from the day appointed for the payment thereof upto the time of the actual payment, but the Central Board may at its discretion waive payment of that interest wholly or in part.

(g) If a shareholder fails to pay any call or any part of a call on the day appointed for payment thereof, the Central Board may, at any time thereafter during such time as any part of such call remains unpaid, serve a notice on him requiring payment of so much of the call as is unpaid, together with any interest which may have accrued.

(h) The notice shall specify a date (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that, in the event of non-payment at or before time so specified, the shares in respect of which the call was made shall be liable to be forfeited.

(i) If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be fofreited by a resolution of the Central Board to that effect.

(j) A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Central Board may think and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Central Board impose.

(k) A person whose shares have been forfeited shall cease to be a shareholder in respect of the forfeited shares, but shall notwithstanding, remain liable to pay to the Bank all monies which, at the time of forfeiture were presently payable by him to the Bank in respect of the shares, but his liability shall cease if and when the Bank receives payment in full of the nominal amount of the shares.

Allotment, transfer, transmission of shares and rights and duties of shareholders.

10. (a) All powers in regard to the allotment of shares shall vest in the Central Board, which shall be entitled to refuse to allot shares to any person or to allot a smaller number of shares than applied for without assigning any reason for the same.

(b) A shareholder may apply to the Local Board of the place at which his share is registered to have his name transferred to another register and both Local Boards concerned, if they are satisfied that there has been a bonafide change of the ordinary place of residence or of the principal place of business of such shareholder, shall cause their registers to be amended accordingly. A sum of rupee one shall be payable to the Bank for such amendment of the registers.

(c) Subject to the restrictions contained in the Ordinance and in these bye-laws shares shall be transferable but every transfer shall be in writing in the following form :

I, _____ of _____, in consideration of the sum of rupees_____ paid to me by_____ of _____(hereinafter called the transferee) do hereby transfer to the transferee the share (or shares) numbered _____ in the National Bank of Pakistan and registered in the_____ register to hold unto the transferee, his executor, administrators and assigns, subject to the several conditions on which I hold the same at the time to execution hereof, and I, the transferee, do hereby agree to take the said share (or shares) subject to the conditions aforesaid, and I the transferee do hereby declare that I am not by reason of any thing contained in any law for the time being in force incompetent to enter into any contract and request that I be registered in respect of the said share (or shares) in the_____ register,

Under our hands this_____ day of_____
Witness to the signature of etc.

(d) The instrument of transfer of any share shall be submitted to the Local Board of the place at which the share is registered and shall be signed by the transferor and the transferee and the transferor shall be deemed to remain the holder of such share until the name of the transferee is entered in the register concerned in respect thereof. Each signature to such transfer shall be duly attested by the signature of one credible witness who shall add his address and occupation.

(e) A Local Board may decline to recognise any instrument of transfer unless:-

(i) a sum not exceeding rupees two is paid to the Bank in respect thereof which sum shall not in any event be refunded;

(ii) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Bank may reasonably require to show the right of the transferor to make the transfer.

(f) A Local Board may decline to register any transfer of shares to a person of whom it does not approve, and may also decline to register any transfer of shares on which the Bank has a lien.

(g) The executors or administrators of a deceased sole holder of a share, the holder of a succession certificate issued under Part X of the Succession Act, 1925, in respect of the share, and a person in whose favour a valid instrument of a transfer of the share was executed by the deceased holder during his life-time, shall be the only persons who may be recognised by the Bank as having any title to the share. In the case of a share registered in the names of two or more holders, the survivor or survivors and, on the death of the last survivor, his executors or administrators or any person who is the holder of a Succession Certificate in respect of such survivor's interests in the share, and person in whose favour a valid instrument of transfer of the share was executed by such survivor during his life-time, shall be the only persons who may be recognised by the Bank as having any title to the share. The Bank shall not be bound to recognise such executors or administrators unless they shall have obtained probate or letters of administration or other legal representation as the case may be from a duly constituted Court in Pakistan having effect at the place where the branch register in which the deceased was registered as a shareholder is maintained.

Provided that in any case where the Local Board concerned shall in their absolute discretion think fit, it shall be lawful for such Local Board to dispense with the production of a Succession Certificate, letters of administration or such other legal representation upon such terms as to indemnity or otherwise as they may think fit

(h) Any person becoming entitled to a share in consequence of the death or insolvency of a shareholder or in consequence of a transfer by a deceased shareholder during his life-time shall upon such evidence being produced as may be required by the Bank, have the right, subject to the provisions of paras (e), (f) and (g) either to be registered as a shareholder in respect of the share or, instead of being registered himself,

to make such transfer of the share as the deceased or insolvent person could have made.

(i) Any person qualified to be registered as a shareholder becoming entitled to a share in consequence of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a shareholder in respect of the share, be entitled in respect of it to exercise any right conferred on a shareholder in relation to the meetings of the Bank.

Meetings of the Central and Local Boards.

11. (a) Meetings of the Central Board shall be convened by the President or the Managing Director at least six times in each calender year and at least once in each quarter.

Provided that the Central Board shall meet at least once in Dacca and once in Lahore in each calendar year.

(b) Any three Directors or any Local Board may require the Managing Director to convene a meeting of the Central Board at any time and the Managing Director shall forthwith convene a meeting accordingly.

(c) At meetings of the Central Board four Directors present shall form a quorum, and each Director present shall have one vote.

(d) The President of the Central Board shall, in the event of an equality of votes, have a second or casting vote.

(e) In the absence of the President from a meeting of the Central Board the Directors present shall elect from amongst themselves a Chairman for such meeting, who shall, in the event of an equality of votes have a second or casting vote.

(f) Not less than fifteen clear days' notice shall be given of each meeting of the Central Board and such notice shall be sent to every Director to his registered address. Whenever it is found necessary to convene an emergency meeting, five clear days' notice shall be given to those Directors only who are at that time in Pakistan.

PROVIDED THAT the first meeting of the Central Board shall, if the requisite number of Directors to form the quorum is present, be deemed to be properly and validly convened and its decisions and resolutions binding on the

Bank notwithstanding any provisions in these bye-laws to the contrary.

(g) No business other than that for which the meeting was convened shall be discussed at a meeting of the Central Board, execpt with the consent of the Chairman and a majority of the Directors present, unless one clear week's notice has been given of the same in writing to the Chairman.

(h) A copy of the minutes of each meeting of the Central Board shall be circulated as soon as possible after each meeting for the information of the Directors and shall be signed by the Chairman at that or the next succeeding meeting.

(i) At each meeting of the Central Board the minutes of the next preceding meeting shall be submitted together with the minutes of the Committee meeting and copies of the minutes of the meetings of the Local Boards held in the interval.

(j) Meetings of a Local Board shall be convened from time to time by the Managing Director or Deputy Managing Director or the Chairman of the Local Board concerned.

(k) Any three Members may require the Secretary to convene a meeting of a Local Board at any time and the Secretary shall forthwith convene a meeting accordingly.

(l) At meetings of a Local Board three Members present shall form a quorum, and each Member shall have one vote.

(m) At the first meeting of a Local Board which takes place after the in-coming Members have assumed office the Local Board shall elect from among its Members a Chairman who shall hold office until he remains a Member, and whenever the office of Chairman becomes vacant the Local Board shall at its next meeting elect another Chairman who shall hold office for the remainder of the term.

(n) The Chairman shall, in the event of an equality of votes, have a second or casting vote.

(o) In the absence of the Chairman from a meeting of a Local Board the Members present shall elect from amongst themselves a Chairman for that meeting who shall, in the event of an equality of votes have a second or casting vote.

(p) The Managing Director may nominate a Senior Officer, by designation, in every area to be the ex-officio Secretary of the Local Board in that area.

(q) At the meetings of a Local Board ex-officio Members shall have the right of discussion but not of vote.

(r) As soon as possible after each meeting a copy of the minutes of each meeting of a Local Board shall be circulated for the information of the Members concerned and shall be signed by the Chairman of the Local Board concerned at that or the next succeeding meeting. Copies of such minutes together with copies of the minutes of the Committee meeting of the Local Board concerned held in the interval shall be submitted forthwith to the Central Board for ratification.

(s) At each meeting of a Local Board the minutes of its previous meeting shall be submitted together with the minutes of the Committee meetings of the Local Board concerned held in the interval.

Acts of Directors and Members valid nothwithstanding subsequent discovery of vacancy or disqualification.

12. (a) No act or proceeding of the Central Board or of a Local Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among its Directors or Members.

(b) All acts done at any meeting of the Central or a Local Board or by any committee of such Board or by any person acting in good faith as a Director or Member shall notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of such persons or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and duly qualified.

Obligations and immunities of Directors and Members.

13. (a) Every Director or Member shall before entering upon his duties, sign a declaration pledging himself to observe strict secrecy respecting all transactions of the Bank with its customers and all matters relating thereto; and shall by such declaraiton pledge himself not to reveal any of the matters which may come to his knowledge in the discharge of his duties except when required or authorised so to do by the Central or a Local Board or by any law for the time being in force.

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(b) Every Director and every Member shall be indemnified by the Bank against all losses and expenses incurred by him in or about the discharge of his duties, except those caused by his own wilful act or omission.

(c) A Director or Member shall not be responsible for any other Director or Member or for any Officer or servant of the Bank or for any loss or expense caused to the Bank by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Bank, or by insolvency, bankruptcy or wrongful act of any customer or debtor of the Bank; or by any thing done in the execution of the duties of his office or in relation thereto, or otherwise than for his own wilful act or omission.

Powers of Local Boards.

14. (a) Each Local Board shall to the extent provided in this bye-law have power generally to transact business within the area for which it is established.

(b) Each Local Board shall in addition to the powers conferred on it under these bye-laws have power as regards entries in the branch registers concerned to examine and rectify transfers and transmissions and to approve or refuse to approve transfers of shares and to issue or refuse to issue certificates of shares.

(c) A Local Board shall not without the previous sanction of the Central Board discount bills for or purchase bills from or advance or lend in any way to any Company or association with limited liability or to any individual or partnership firm amounts exceeding the following in the aggregate at any one time.

	Limited Companies	Individual and Partnership firms.
(1) Under section 25 (1) (a) of the Ordinance.	50,00,000	12,00,000
(2) Under section 25 (1) (b) of the Ordinance.	5,00,000	2,00,000
(3) Under section 25 (1) (c) of the Ordinance.	20,00,000	20,00,000

(4) Under section 25 (1) (d) of the Ordinance.	1,00,000	50,000
(5) Under section 25 (1) (e) of the Ordinance.	1,00,000	25,000
(6) Under section 25 (1) (f) of the Ordinance.	20,00,000	...
(7) Under section 25 (1) (g) of the Ordinance.	1,00,000	25,000
(8) Under section 25 (6) of the Ordinance.	10,00,000	5,00,000
(9) Under section 25 (11) of the Ordinance.	2,00,000	75,000
(10) Under section 25 (13) of the Ordinance.	10,00,000	5,00,000
(11) Under section 25 (14) of the Ordinance.	10,00,000	5,00,000

(d) For the proposes of this bye-law indebtedness to the Bank shall be deemed to include the maximum drawing powers sanctioned on fluctuating accounts and the maximum limits sanctioned for the discount and purchase of bills, even though the actual drawings or bills discounted or purchased are less than the maximum drawing powers and limits sanctioned.

(e) If at the time of consideration by a Local Board of an advance or loan to a joint stock company of which Members are directors and a majority of the Members present are directors of that Company, no advance or loan shall be finally sanctioned without the previous approval of the Central Board.

(f) These powers shall be the maximum that any Local Board may exercise and the Central Board shall with the previous approval of the Central Government have power to vary and withdraw all or any of them in respect of all or any Local Board.

(g) Notwithstanding anything contained in these Bye-Laws or rules made thereunder the powers, authorities, privileges, duties, obligations and functions of Local Boards, until they are constituted, may be exercised and performed by the Central Board.

Committees of the Central and Local Boards and Distribution of business amongst Directors and Members.

15. (a) There shall be a committee of the Directors to be called the Committee of the Central Board which shall ordinarily meet fortnightly to attend to the business of the Bank. Such Committee shall consist of the President, the Managing Director, and four Directors elected by the Central Board for a period of 6 months.

(b) Two Directors shall form a quorum of the Committee of the Central Board.

(c) The President of the Central Board or in his absence a Chairman elected by the Directors present shall preside at the meeting of the Committee of the Central Board and shall in the event of an equality of votes have a second or casting vote.

(d) The Committee of the Central Board shall be entitled to exercise all the powers of the Central Board excepting those specifically withdrawn from it by the Central Board.

(e) The proceedings of the Committee of the Central Board shall be submitted to the Central Board for ratification.

(f) There shall be a Committee of each Local Board to be called the Committee of the Local Board concerned which shall ordinarily meet once a week and shall consist of the Secretary and three Members of the Local Board concerned. At each meeting of the Local Board concerned the Members shall decide the manner in which they shall as equally as possible in rotation attend the meetings of the Committee of the Local Board concerned.

(g) Two Members excluding the Secretary shall form a quorum of the Committee of a Local Board.

(h) The Chairman of a Local Board or in his absence a Chairman elected by the Members present shall preside at meetings of the Committee of a Local Board and shall in the event of an equality of votes have a second or casting vote

(i) The Committee of a Local Board shall exercise such powers as are delegated to it by the Local Board concerned.

(j) The proceedings of the Committee of a Local Board shall be submitted to the Local Board concerned for ratification.

Remuneration of Directors and Members.

16. (a) All Directors except the Managing Director and the Government Officials nominated under Section 14 (c) of the Bank's Ordinance, shall receive a fee of Rs. 100/- for each Meeting of the Central Board and a fee of Rs. 50/- for each Meeting of the Committee of the Central Board or of a technical Committee, or sub-committee appointed by the Central Board attended by them, in addition to travelling expenses, if any. A Director other than the Managing Director and the Government Officials nominated under Section 14 (c) of the Bank's Ordinance shall also be entitled to receive a meeting fee of Rs. 100/- when called upon to preside over a meeting of the shareholders, In addition to the travelling expenses if, any.

(b) Members other than the Managing Director or Deputy Managing Director shall receive a fee of Rs. 50/- for each meeting of the Local Board and a fee of Rs. 25/- for each meeting of the Committee of the Local Board attended by them in addition to the amount of actual travelling expenses, if any. A Member other than the Managing Director or Deputy Managing Director shall also be entitled to receive a fee of Rs. 50/- when called upon to preside over the meeting of the shareholders in addition to the travelling expenses, if any.

(c) Directors and Members shall be paid travelling and Diem Allowances on the following scales provided that Directors shall also be entitled to the travelling allowance and Diem Allowance at these rates if deputed by the Central Board to visit any place on the Bank's business or to serve on any technical Committee or Sub-committee : —

(i) one first-class rail or steamer fare or air passage;

(ii) road mileage @ Paisa 0-62 per mile of the journey or any part thereof performed by road; "Provided that travelling allowance for journeys undertaken by road between

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places connected also by rail or steamer, will be admissible on the basis more economical to Bank" ;

(iii) diem allowance of Rs. 40/- for the actual days of journey and a maximum of 3 days halt, if actually made out of the station of residence, the allowance to be increased by 50% for journey or halt outside Pakistan ;

(iv) the cost actually incurred for making reservation of the accommodation, including air-conditioned accommodation, or any tax on the fare etc.;

(v) actual cost of premia in respect of aviation policy for an amount not exceeding Rs. one lac if taken and other incidental charges such as porterage, luggage freight etc., when actually paid ;

(vi) the travelling allowance will ordinarily be admissible on the basis of a journey by the shortest route but where journey is performed by a route which is not the shortest but is cheaper than the shortest, Travelling Allowance will be paid according to the route actually used.

Provided that Government-officials nominated under Section 14 (c) of the Bank's Ordinance shall be paid Travelling and Diem Allowance according to the Government Rules applicable to them.

(vii) the travelling allowance will ordinarily be admissible from the station of residence to the station of meeting and back, but where the journey undertaken from a place other than the station of residence is more economical to the Bank the travelling allowance will be paid on the basis of the journey actually performed.

Establishment and discontinuance of Branches and Agencies.

17. (a) Subject to any law for the time being in force Central Board may :

(i) establish branches or agencies at such places, whether in Pakistan, or elsewhere, as it deems advantageous for the interest of the Bank ; and

(ii) discontinue any branch or agency established under this bye-law.

(b) The Central Board may define the nature and extent of the business which any branch or agency established under this bye-law may transact.

18. (a) The Central Board shall have power :— Officers of the Bank.

(i) to appoint and engage such officers, servants and persons as it may consider necessary for the efficient conduct of the business of the Bank ;

(ii) to suspend, remove, dismiss and discharge any such officer, servant or person ;

(iii) to frame, with the previous approval of the Central Government, rules to which the Officers and staff of the Bank shall be subject;

(iv) to make provisions, with the previous approval of the Central Government, to grant salaries, pensions and other emoluments to officers and staff, and to grant gratuities or other financial assistance, either temporary or permanent, to widows, children or other dependents of deceased officers or staff; and

(v) to constitute, with the previous approval of the Central Government, Provident, Pension and Guarantee Funds for Officers and Staff and to frame rules for the administration of such funds and the payments to be made therefrom.

(b) No Managing Director, Deputy Managing Director, Officer or employee of the Bank shall, without the previous sanction of the Central Board, engage in any other banking or commercial business either on his own account or on behalf of any other person or persons or shall act as agent for the sale or purchase of Government or other securities.

(c) Every auditor, officer, servant or person employed or engaged by the Bank shall before entering upon his duties sign a declaration required by bye-law 13 (a).

(d) The Central Board may authorise the Managing Director, Deputy Managing Director, and any other officer or employee of the Bank to exercise powers specified by the Central Board.

(e) Notwithstanding anything contained in Bye-law 18 (d), the Central Board may with the previous approval of the Central Government authorise the Managing Director and other officers of the Bank to incur such expenditure and in such manner as may be specified by the Central Board from time to time.

Signing of Accounts receipts and documents of the Bank.

19. The Managing Director and Deuputy Managing Director, and such other officers and employees of the Bank as the Central Board may authorise in this behalf by notification in the official Gazette of Pakistan are hereby severally empowered, for and on behalf of the Bank, to endorse and transfer promissory notes, stock-receipts, stock debentures, shares, securities and documents of title to goods, standing in the name of or held by the Bank, and to draw, accept and endorse bills of exchange and letters of credit, in the current and authorised business of the Bank, to sign all other accounts receipts and documents connected with such business and to execute proxies to vote at meetings on behalf of shareholders from whom the Bank holds general powers of attorney.

Seals of the Bank.

20. (a) The common seal of the Bank shall not be affixed to any instrument except in the presence of at least three Directors including the Managing Director, who shall sign their names to the insrument in token of their presence, and the signatures so affixed shall not be deemed to be signatures as witness to the instrument and unless so signed such instrument shall be of no validity.

(b) The Bank shall have for use by the Local Boards official seals which shall be facsimiles of the common seal of the Bank with the addition of the name of the Local Board by which it is to be used.

(c) The official seal shall be affixed to the certificates issued in respect of shares entered in the branch register kept at those places and may be used for the purposes specified in para (f).

(d) An Instrument to which an official seal duly affixed shall bind the Bank as if it had been sealed with the common seal of the Bank.

(e) An official seal shall not be affixed to any instrument except in the presence of at least two Members of the Local Board concerned and the Secretary who shall sign their names to the instrument in token of their presence and the signature so affixed shall not be deemed to be signature as witness to the instrument and unless so signed such instrument shall be of no validity.

(f) The official seal may be affixed by Local Boards to instruments of the following descriptions in connection with business at offices under their respective jurisdiction, namely:—

(i) leases of office premises, godowns, houses and other property acquired in connection with the business of the Bank and surrenders and transfers of such leases ;

(ii) conveyances of property bought or sold by the Bank ;

(iii) instruments whereby any property is mortgaged to the Bank, conveyances on sale or by way of transfer of mortgage, and re-conveyances, surrenders and release of such property;

(iv) powers of attorney granted by the Bank ;

(v) agreements for service of employees whom the Local Boards are empowered to appoint ;

(vi) cotracts of indemnity, suretyship or guarantee with specific security or otherwise ; and

(vii) instruments of appointment or discharge of the Bank as trustees of any trust, or connected with the administration of any estate in which the Bank is concerned as executor, trustee, or otherwise.

Contracts.

21. (a) Contracts on behalf of the Bank may be made as follows :—

(I) Any contract which, if made between private persons and required by law to be in writing, may be made on behalf of the Bank in writing, signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged ;

(ii) Any contract which if made between private persons, not required by law to be in writing and not reduced to writing may be made by parole on behalf of the bank by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(b) All contracts made according to the provisions of this bye-law shall be effectual, and shall bind the Bank and all other parties thereto and their legal representatives.

Conduct and defence of legal proceedings.

22. Plaints, written statements, petitions and applications may be signed and verified, affidavits may be sworn or affirmed, bonds may be signed, sealed and delivered and generally all other documents connected with legal proceedings whether contentious or non-contentious may be made and completed on behalf of the Bank by any officer empowered by or under bye-law 19 to sign documents for and on behalf of the Bank.

Notices.

23. (a) A notice may be given by the Bank to any shareholder either personally or by sending it by Post to him to his registered address or, if he has no registered address in Pakistan, to the address, if any, supplied by him to the Bank for giving of notice to him.

(b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, shall be deemed to have been effected at the time at which the letter would have been delivered to him in the ordinary course of post.

(c) A shareholder who has no registered address in Pakistan, and has not supplied to the Bank an address for the giving of notice to him shall not be entitled to any notice, notwithstanding anything contained in these bye - laws.

(d) A notice may be given by the Bank to the jointholders of a share by giving the notice to the jointholder named first in the register in respect of the share and such notice shall be deemed to be sufficient notice to all other jointholders.

(e) Any notice given in accordance with the foregoing provisions shall be deemed to have been duly given notwithstandiug that the shareholder be then deceased and whether or not the Bank had notice of his death and shall in that event be deemed to be a notice to his legal representative.

(f) A notice may be serviced on the Bank by leaving it at, or sending it by post to, the Head Office of the Bank.

Taking over of the business of any other bank.

24. (a) The Bank may with the sanction of the Central Government enter into negotiation with another bank for the amalgamation or purchase of in any other manner taking over the business of that bank including its capital, assets and liabilities and may pay the consideration for such arrangement

either in cash or by the allotment of shares of the Bank or partly in cash or partly in shares, or in any other manner approved by the Central Government and may (subject to the provisions of the Ordinance relating to the increase of capital) for the purpose of such payment, increase the capital of the Bank by the issue of such additional number of shares as may be determined by the Bank.

(b) Any business so acquired shall after the acquisition be carried on by the Bank subject to the provisions of the Ordinance.

Granting of advances or loans to any other bank.

25. (a) The Bank may, either alone or conjointly with others, for the purpose of averting the winding up of any other bank or where any such bank is being wound up for facilitating the winding up, advance or lend money to, or open a cash credit in favour of, such bank or the liquidators thereof, as the case may be, for any period, upon the security of all or any of the assets whatsoever of such bank.

(b) All advances, loans or cash credits granted to any bank under this bye-law shall be subject to the prior sanction of the Central Board, or, in case of urgency should the sanction of the Central Board be not available, subject to the prior sanction of its committee, and the Bank shall not make or grant such advance, loan or cash credit until a valuation of the assets of the bank seeking such accommodation has been made, submitted and accepted, but in no case shall such advance, loan or cash credit exceed such proportion of the assets so disclosed by valuation as the Central Board or its committee shall fix.

Alteration of Capital.

26. (a) When a special resolution to increase the capital of the Bank has been passed the Central Board may, subject to the provisions of the Ordinance and to the special directions if any, given in reference thereto by the meeting of the shareholders at which such resolution has been passed :

(i) make such orders as it thinks fit for the opening of subscriptions by the shareholders towards such increase of capital ;

(ii) allow to the shareholders such period to pay up the subscriptions as it thinks fit

(iii) direct the manner in which the shareholders shall subscribe and pay into the Bank the proportions of new capital ; and

(iv) make such orders as it thinks fit for the disposal and allotment of the amount of new capital that may not be subscribed for and paid up in the manner aforesaid.

(b) Any new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture or otherwise, as the shares in the original capital, and shall rank *Pari Passu* with them.

(c) when a special resolution to reduce the capital of the Bank has been passed, the Central Board may, subject as aforesaid, determine the manner in which the reductions shall be carried into effect.

Balancing of accounts and ascertainment of profit and loss.

27. (a) The Central Board shall cause the books of the Bank to be balanced on every thirtyfirst day of December, and a balance sheet in the form given in bye-law 28 shall be prepared.

(b) An Account of the profit and loss of the Bank during the previous year shall be taken on or immediately after every thirtyfirst day of December.

Balance sheet and statement of profit and loss,

28. (a) The annual balance sheet shall be in the following form or as near thereto as circumstances admit and shall contain the particulars specified hereunder, namely:—

A. LIABILITIES.

1. CAPITAL.
   (i) Authorised.
   (ii) Issued and Subscribed.
   (iii) Called Up.
   (iv) Less call unpaid (if any).
   (v) Add amount paid up on forfeited shares (if any).

2. RESERVE LIABILITY OF SHAREHOLDERS.

3. RESERVE FUND (S).

4. DEPOSITS
   (i) Fixed and Short Term Deposit.
   (ii) Savings Bank.
   (iii) Current Account.
   (iv) Other Accounts.

5. LOANS AGAINST SECURITIES PER CONTRA

6. ACCEPTANCES FOR CONSTITUENTS.

7. ADJUSTING ACCOUNT OF INTEREST COMMISSION ETC., (WHEN IN CREDIT).

8. DIVIDENDS :-

(i) For the year ended
(ii) Unclaimed
(iii) Profit and Loss Account
(iv) Contingent Liabilities (if any).

B. ASSETS :

1. INVESTMENTS :-

(i) Government Securities
(ii) Other Trustee Securities.
(iii) Other Authorised Securities.
(Iv) Immovable Properties at or below cost.

2. ADVANCES :-

(i) Loans.
(ii) Cash Credits and Overdrafts.
(iii) Bills discounted and Purchased.

Particulars of Advances :-

(1) Debts considered good in respect of which the Bank is fully secured (This amount includes debts due by Directors, Members and Employees, or by them jointly with others, and by firms in which a Director or a Member is a Partner, aggregating Rs. _____ including Rs. _____ advanced to Directors and Members since 31st December* and recoverable).

(2) Debts considered good for which the Bank holds no securit, other than the debtors personal security (This amount includes debts due by Directors, Members and Employees, or by them jointly with others, and by firms in which a Director or a Member is a partner, aggregating Rs. _____ Including Rs. _____ advanced to Directors and Members since 31st December* and recoverable).

(3) Liability of Constituents for Acceptances per contra.

(4) Dead Stock :-

Premises, furniture, fittings and equipment.

*Date to be 12 months prior to the date of the Balance Sheet.

(i) Total cost upto 31st December*
(ii) Additions since 31st December*
(iii) Less sales since 31st December*
(iv) Total Depreciation written off upto the 31st December @

(5) Sundries (Stationery, Stamps. etc.,)

(6) Adjusting Account of interest, commission etc.. (when in debit).

(7) Bullion

(8) Cash
(i) in hand and with the State Bank of Pakistan.
(ii) balances with other banks.

(b) The annual statement of profit and loss shall be in the following form or as near thereto as circumstances admit and shall contain the particulars specified hereunder :-

INCOME

(1) Amount brought forward (if any)

(2) Interest, Exchange, Commission, Discount, etc. for the year less usual and necessary provisions.

EXPENDITURE :

(1) Establishment
(2) Directors' and Members' fees and expenses
(3) Travelling Expenses
(4) Auditor's Fees
(5) Rent, Taxes, Insurance, Lighting, etc.
(6) Pay of Guards
(7) Depreciation on Bank's Property
(8) Repairs to Bank's Property
(9) Law Charges
(10) Postages and Telegrams
(11) Stationery
(12) Miscellaneous expenses.

Total net available balance.

---

*Date to be 12 months prior to the date of the balance sheet.

@ Date to be that of the balance sheet.

ALLOCATION

(1) Amount set aside for payment of a dividend at ..... per cent per annum.

(2) Amount transferred to Reserve Fund.

(3) Amount transferred to Provident and other Funds.

(4) Bonus to Staff.

(5) Balance carried forward.

(c) The Bank's investments in securities shall be divided into two accounts, namely, "Bank's Investments Permanent Account" "Bank's Investments Floating Account". The "Bank's Investments Permanent Account" shall not exceed ten crores of rupees. The valuation of securities forming the "Bank's Investments Permanent Account" and "Bank's Investments Floating Account" shall be made on the basis either of their cost or of their market value on the last day of the year; and the method adopted (whether cost or market value) shall be shown in the balance sheet. Where the value of the investments shown in the outer column of the balance sheet is higher than the market value, the market value shall be shown separately in brackets.

29. (a) A dividend may be declared as soon as may be after the thirtyfirst of December and the amount of such dividend shall be determined by the Central Board. Dividends and reserves.

(b) No unpaid dividend shall bear interest as against the Bank.

(c) The Central Board may, before declaring any dividend, set aside out of the profits of the Bank such sums as it thinks proper as a reserve or reserves which shall, at the discretion of the Central Board, be applicable for meeting contingencies, or for equalising dividends, or for any other purpose to which the profits of the Bank may be properly

applied, and pending such application may, at the like discretion, either be employed in the business of the Bank or be invested in any of the securities specified in clauses (a) and (b) of sub-section (1) of section 25 of the Ordinance.

(d) If several persons are registered as joint holders of any share, any one of them may give effectual receipts for any dividend payable on the share.

General and Special meetings.

30. (a) General meetings shall be convened by the Central Board and a notice convening such meeting, signed by the Managing Director or Deputy Managing Director, shall be published in the official Gazette of Pakistan and in such other manner as the Central Board may direct, at least fifteen days before the meeting is held.

(b) The Central Board shall convene a special meeting at such time and place as it may determine on the requisition of any three Directors or of not less than one hundred shareholders holding shares of the aggregate nominal value of not less than five hundred thousand rupees, and entitled to vote under section 24 of the Ordinance, if such requisition is signed by the requisitionists and addressed to the Managing Director or Deputy Managing Director stating the objects of the proposed meeting and deposited at the Head Office of the Bank.

(c) The requisition may consist of several documents in like form, each signed by one or more of the requisitionists.

(d) Sixty days' previous notice of any special meeting shall be given by the Central Board under the hand of not less than three Directors and such notice shall state the objects for which the meeting is convened and the time and place of such meeting, and shall be published in the Official Gazette of Pakistan and in such other manner as the Central Board may direct.

Provided that not less than three months' previous notice shall be thus given of any special meeting held for the purpose of increasing or reducing the capital of the Bank.

(e) If the Central Board does not proceed within 21 days from the date of deposit of the requisition to convene a meeting, the requisitionists or any of them holding more than half of the total nominal value of shares held by all of them, may themselves call the meeting, but a meeting so convened shall not be held after the expiration of three months from the date of deposit of the requisition. If the requisition consists of several documents then the date of deposit of the requisition shall be deemed to be the date of deposit of the last document.

(f) A meeting convened under this bye-law by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by the Central Board.

(g) No business shall be transacted at any meeting, whether general or special, unless a quorum of two hundred shareholders, in person or by proxy, is present at the commencement of such business.

(h) If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened by shareholders not been Directors, shall be dissolved; in any other case, it shall stand adjourned to the same day in the following week at the same time and place, and if at such adjourned meeting a quorum is again not present, the shareholders present at that meeting shall constitute a quorum.

(i) Without the consent of the Chairman, no business other than that for which the meeting was convened shall be transacted or discussed at that meeting, unless not less than one clear month's notice of the same has been given in writing to the Chairman by not less than ten shareholders qualified to vote at such meetings.

(j) Save as is otherwise provided in section 18 of the Ordinance every matter submitted to a meeting, whether general or special, shall be decided by a majority of votes.

(k) A declaration by the Chairman of any meeting, that a resolution has been carried or rejected thereat upon a show of hands, shall be conclusive and an entry to that effect in the book of proceedings of the Bank shall be

sufficient evidence of that fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution, unless, immediately on such declaration a poll be demanded in writing by ten shareholders present and entitled to vote at such meeting.

(l) If a poll be duly demanded, it shall be taken either at once or at such time and place either by open voting or by ballot, as the Chairman directs and the result of the poll shall be deemed to be a resolution of the meeting at which the poll was demanded. At such poll voting shall be either in person or by proxy.

(m) In the case of joint holders of shares the person whose name stands first in the register of shareholders shall for the purpose of voting at any metting be deemed to be the sole proprietor thereof; and on all occasions the vote of such first named shareholder, either in person or by proxy, shall be allowed as the vote in respec of such share, without proof of the concurrence of other holders thereof.

(n) A shareholder of unsound mind, or in respect or whom an Order has been made by any court having Jurisdiction in lunacy, may vote whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may on a poll, vote by proxy.

(o) Any shareholder duly qualified to vote and desirous of voting personall or by proxy for anothr or others shall attend on the date and at the time and place fixed for the meeting.

(p) (i) No instrument of proxy shall be valid unless in the case of an individual shareholder it is signed by him or his attorney duly authorised in writing or in the case of a joint holder it is signed by the shareholder first named in the register or his attorney duly authorised in writing or in the case of a corporation it is executed under its common seal or signed by its attorney duly authorised in writing, provided that an instrument of proxy shall be deemed to be sufficiently signed by any shareholder who is, for any reason, unable to write his name, if his mark is affixed thereto and attested by a Judge, Magistrate, Registrar or Sub-Registrar of Assurance or other Gazetted Officer of the Government.

(ii) No person shall be appointed a proxy who is not an individual shareholder and qualified to vote at the meeting in respect of which the proxy is given.

(iii) No proxy shall be valid for any meeting unless it is made out specifically for the purpose of voting at such meeting or at any adjournment thereof.

(iv) No proxy shall be valid unless it is duly stamped and unless it, together with the power of attorney or other authority (if any) under which it is signed, or a notarially certified copy of that power or authority, is deposited at the Principal Office of the Bank at which the shares of the shareholder granting the proxy are registered not later than 4 p.m. on the day not less than 10 clear days before the date fixed for the meeting.

(v) No instrument of proxy shall be valid unless it is in the following form and dated :--

NATIONAL BANK OF PAKISTAN.

I, _____

of _____ being a shareholder of the National Bank of Pakistan holding shares No. _____

HEREBY APPOINT _____,

of _____,

also a shareholder of the National Bank of Pakistan (or failing him _____ of _____ also a shareholder of the National Bank of Pakistan) as my proxy to vote for me and on my behalf at the general/special meeting of the shareholders of the National Bank of Pakistan to be held at _____ on the _____ day of _____ and at any adjournment tehreof.

Dated this _____ day of _____

(vi) An instrument of proxy deposited in terms of this bye-law shall be irrevocable after 4 p.m. on the last date for the deposit of proxies unless on or before such time these shall have been deposited at the Principal Office of the Bank

at which the shares of the shareholder who granted the proxy are registered a notice of revocation in writing under the hand of the grantor specifically stating the name of the person in whose favour the instrument was originally granted. In the case of an instrument of proxy granted in favour of two grantees in the alternative, it shall not be necessary to mention in a notice or revocation the name of the second or alternative grantee provided that the notice is otherwise sufficient to identify beyond doubt the instrument of proxy which it is intended to revoke.

(vii) if two or more instruments of proxy in respect of the same shares shall be deposited and if on or before the latest time for deposit of proxies all but of one of such instruments of proxy shall not have been duly revoked in accordance with the procedure prescribed in sub-para (vi) above all such instruments of proxy shall be deemed invalid.

(viii) The due revocation of an intrument of proxy shall in no way prohibit the deposit of another valid instrument of proxy within the time limited by sub-para (iv) above.

(ix) Notwithstanding anything to the contrary in these bye- laws, the grantor of an instrument of proxy which has become irrevocable under this bye-law shall not be entitled to vote in person at the meeting to which such instrument relates.

(q) A shareholder attending any meeting convened under this bye-law shall, for purposes of identification and to determine his voting rights, be required to sign and deliver to the Bank the form given hereunder:—

NATIONAL BANK OF PAKISTAN
General / Special
Meeting.

No_____ _____ 19

(1) Name (in Block Letters)_____

(2) Registered Address_____

(3) Registered Nos. of Shares_____

(4) Whether registerd before_____

(5) Register (Dacca, Karachi, Lahore)_____

JA209

(31)

(6) Votes in Person _____

(7) Votes by Proxy _____

*Certified that the Particulars _____
entered herein are correct.

Signature of Shareholder.

Secretary,

Local Board _____ Area.

(r) The decision of the Chairman of the meeting as to the qualification of any shareholder to vote, and in the case of a poll, as to the number of votes any shareholder is competent to exercise, shall be final.

(s) The President of the Central Board shall be the Chairman at all meetings at which he is present.

(t) If the President of the Central Board is absent from any meeting, a Chairman shall be elected by the shareholders present from amongst the Directors present at that meeting and in the event of no Director being present the shareholders present at that meeting shall elect one from amongst themselves to be the Chairman of the meeting

(u) The Chairman shall regulate the procedure at all meetings and in particular shall have full power to decide the order in which shareholders can address the meeting, to fix a time limit for speech to apply the closer when in his opinion any matter has been sufficiently discussed and to adjourn the meeting.

(v) The proceedings at any meeting and all resolutions and decisions of such meeting shall be valid and binding on the Bank so far as such proceedings, resolutions and decisions are consistent with the provisions of the Ordinance.

Local and special local meetings.

31. (a) Local meetings shall be held at least once in every year at the Principal Offices of the Bank at Karachi, Lahore and Dacca. They shall be held on such dates as the Central Board may direct.

---

* (For use when the meeting is held in an area other than that in which the shareholder is registered).

(b) The provisions of the next preceding bye-law shall so far as may be, and subject to the provisions of this bye-law apply to local and special local meetings:

Provided that references in the said provisions to shareholders shall be deemed to be references to shareholders on the branch register concerned, and references to directors the Managing Director or Deputy Managing Director and the official Gazette of Pakistan shall be deemed to be references respectively, to Members, Secretaries and the Local Official Gazette.

Provided further that ten or more shareholders holding shares of the aggregate nominal value of fifty thousand rupees may convene a special local meeting and that the number of shareholders to constitute a quorum and to demand a poll in the case of any local meeting shall be respectively, twenty and five.

(c) The Chairman of the Local Board concerned shall be the Chairman at all meetings at which he is present.

(d) If the Chairman of the Local Board concerned is absent from any meeting, a Chairman shall be elected by the shareholders present from amongst the Members present at that meeting, and in the event of no Member being present the shareholders present at that meeting shall elect one from amongst themselves to be the Chairman of the meeting.

Powers exercisable by local and special local meetings.

32. (a) Local and special local meetings shall only be empowered to transact the business specifically so authorised by the Ordinance.

(b) The proceedings of any local or special local meeting and all resolutions and decisions of such meeting shall subject to the provisions of this bye-law be valid and binding on the Bank.

5.10.79

EXHIBIT 2 - BANGLADESH BANKS (NATIONALISATION) ORDER, 1972

(Omitted here but printed at p. JA58)

CERTIFICATE OF INCORPORATION.

K&R. No. 381. of 1955-1956.

I hereby certify that NISHAT

JUTE MILLS

LIMITED.

is this day incorporated under the Companies Act. VII of 1913, and that the Company is Limited.

Given under my hand at KARACHI.

this SIXTEENTH day of DECEMBER

One thousand nine hundred and FIFTY-FIVE.

TRUE COPY

Sd/-(M.S. JALIL)

Asstt. Registrar Joint Stock Companies
KARACHI REGION

Registrar of Joint Stock Companies.
Karachi.

16/12

J.S.C. 34.

PCPPK--H|4113(69)DCS&F--3-7-70--1,000.

EXHIBIT 4 - BANGLADESH INDUSTRIAL ENTERPRISES (NATIONALISATION) ORDER, 1972

(Omitted here but printed at P. JA86)

NISHAT JUTE MILLS LIMITED

No. 1/F/71-72.

For US.$.10,249.54

At 180 DAYS SIGHT D/P. of this FIRST of Exchange

(SECOND of the same tenor and date to pay to the order

of NATIONAL BANK OF PAKISTAN KCC

the sum of U.S.DOLLAR TEN THOUSAND [illegible] FORTYNINE

& POINT FIFTYFOUR ONLY.

Value received AGAINST INVOICE NO.1/F/7

To PAR-AM,INC.,555 FIFTH AVENUE:NE[illegible]
N.Y.10017,U.S.A. THROUGH: IRVING T[illegible]
CO.MEDISON & 46TH STREET: BRANCH:N[illegible]
YORK:N.Y.10017,U.S.A.

ASTED DATED PAYABLE

(Authorized Signature)

PAR-AM 1

N. J. M.

e3/6/72
218

for NATIONAL [illegible]
P. MANAGER

"DRAWN UNDER CONTRACT NO. NJM-D-132/F/71-71 L/C NO. 3.3.717.

No. 1A/F/71-72.

For US.$.1185.54 Dated 9th August 19 72

At 180 DAYS SIGHT of the FIRST of the same tenor and date unpaid pay to the order of NATIONAL BANK OF PAKISTAN, KARACHI the sum of U.S. DOLLARS ONE THOUSAND ONE HUNDRED EIGHTY FIVE AND CENTS FIFTY ONLY

Value received AGAINST INVOICE NO. 1A/F/72.

To PAK-AM, INC., 595 FIFTH AVENUE, NEW YORK, N.Y. 10017, U.S.A. C/O CHASE MANHATTAN BANK INTERNATIONAL TRUST CO. NELSON & 46TH STREET BRANCH: NEW YORK, N.Y. 10017, U.S.A.

N.J.M. for Nishat Jute Mills Limited

NISHAT JUTE MILLS LIMITED

ACCEPTED PAYABLE AT THE CHASE MANHATTAN BANK N.A. DATE 3/4/72 (Authorised Signature)

Due 3/6/72
#216

for NATIONAL BANK OF PAKISTAN
P. HANSON

"DRAWN UNDER CONTRACT O.NJM-D-125/F/70-71 DATE -2-71"
PURCHASE ORDER NO.24264:

No 2/F/71-72.

For US.$.5360.16 Dacca 5/8/ 1971

At 180 DAYS SIGHT D/P this First of Exchange

(SECOND of the same tenor and date unpaid) pay to the order

of NATIONAL BANK OF PAKISTAN.DACCA

the sum of U.S.DOLLAR FIVE THOUSAND THREE HUNDRED SIXTY

AND CENTS SIXTEEN ONLY.

Value received AGAINST INVOICE NO.2/F/71-72

To PAK-AM INC,555 FIFTH AVENUE,NEW YORK N.Y.10017,U.S.A.THROUGH:IRVING TRUST CO, MEDISON & 46TH STREET,BRANCH NEW YORK N.Y.10017,U.S.A.

NISHAT JUTE MILLS LIMITED

ACCEPTED 9/12/71 PAYABLE AT BANK OF AMERICA NEW YORK

For National Bank of Pakistan
I.B.C. No 24/46/71
Local Office, Dacca.

N. J. M.

218
3/6/72

"DRAWN UNDER CONTRACT NO.NJM-D-125/F/71-72 DATED 2/71"
PURCHASE ORDER NO.21269.

No 2A/F/71-72

For U.S.$.289.18 Dated 9/3/ 1971

At 180 DAYS SIGHT D/P of this FIRST of Exchange

(SECOND of the same tenor and date being unpaid) pay to the order

of NATIONAL BANK OF PAKISTAN, DACCA

the sum of U.S.DOLLAR TWO HUNDRED EIGHTY NINE AND CENTS

EIGHTEEN ONLY.

Value received AGAINST INVOICE NO.2A/F/71-

To PAK-AM INC.,555 FIFTH AVENUE,
NEW YORK.N.Y.10017,U.S.A.
THROUGH:IRVING TRUST CO,MEDISON
& 46TH STREET,BRANCH,NEW YORK.
N.Y.10017, U.S.A.

NISHAT JUTE MILLS LIMITED

N. J. M.

ACCEPTED 9/3/71

NATIONAL BANK OF PAKISTAN
P.O. BOX NO. 3
DACCA

for NATIONAL BANK OF PAKISTAN
P. MANAGER

WN UNDER CONTRACT NO NJM-D-125/F/71-72 DATED 23-2- PURCHAS DER NO.24264:

No. 9/F/71-72.

For US.$.13,362.

At 180 DAYS SIGHT D[illegible] of this

(SECOND of the same tenor and date (one [illegible] said) pay to the order

of NATIONAL BANK OF PAKISTAN.DACCA.

the sum of U.S.DOLLER THIRTEEN THOUSAN THREE HUNDRED SIXTY TWO

AND CENTS SEVENTY TWO ONLY

Value received AGAINST INVOICE NO.9/F/71-72.

To PAK-AM INC.,555 FIFTH AVENUE,NEW YORK N.Y.10017,U.S.A.THROUGH:-IRVING TRUST MEDISON & 46TH STREET BRANCH,NEW YORK 10017, U.S.A.

6/8/ 19 71

of Exchange

[illegible] BA[illegible] F.B.C. NO. [illegible] Dacca, Dated 3/4/71

N. J. M.

F 7/2

3/6/72

NATIONAL BANK OF PAKISTAN D. ENDORSED

"DRAWN UNDER CONTR T NO. NUM-D-10/F/71-72 DA[illegible]

No. 10/F/71-72

For U.S.$.785.11

At 180 DAYS SIGHT D/P. of the

(SECOND of the same tenor and date

of NATIONAL BANK OF PAKISTAN: DA

the sum of U.S.DOLLAR SEVEN HUNDRE

ELEVEN ONLY.

Value received AGAINST INVOICE NO.10,

To PAK-AM, INC., 555 FIFTH AVENUE:
NEW YORK: N.Y.10017, U.S.A. THROUG
IRVING TRUST CO. MEDISON & 46TH
STREET BRANCH. NEW YORK: N.Y. 1001

P. F74 & P

3/6/72

NISHAT JUTE MILLS LIMITED

NATIONAL BANK OF PAKISTAN

P. MANAGER

"DRAWN UNDER CONTRAC NO.NJM-D-10/F/71-72 DATED /7/71"
PURCHASE OER NO.21053:

No 11/F/71-72.

For U.S.$. 4144.46 Dated 6/3/ 19 71

At 180 DAYS-SIGHT D/P. of this FIRST of Exchange

(SECOND of the same tenor and date being unpaid) pay to the order

of NATIONAL BANK OF PAKISTAN.DACCA

the sum of U.S.DOLLAR FOUR THOUSAND ONE HUNDRED FORTY FOUR AND

CENTS FORTY SIX ONLY

Value received AGAINST INVOICE NO. 11/F/71-72

To PAK-AM INC.,555 FIFTH AVENUE,NEW YORK,N.Y.
10017,U.S.,THROUGH: IRVING TRUST CO
MEDISON& 46TH STREET BRANCH,NEW YORK,
N.Y.10017, U.S.A.

NISHAT JUTE MILLS LIMITED

ACCEPTED 9/2/72

NATIONAL BANK OF PAKISTAN
F.B.C. NO 3/550/71
Local Office Dacca

P# F7488
3/6/72

for NATIONAL BANK OF PAKISTAN
P. MANAGER

JA221

DRAWN UNDER CONTRACT NO. NJM-D-13/F/71-72 DATED 21-

PURCHA[illegible]DER NO. 21207.

No 12/F/71-72.

For US.$.1197.88 6/8/ 1971.

At 180 DAYS SIGHT D/P of this FIRST of Exchange

(SECOND of the same tenor and date being unpaid) pay to the order

of NATIONAL BANK OF PAKISTAN, DACCA

the sum of U.S.DOLLAR ONE THOUSAND ONE [illegible]RED NINETY SEVEN AND

CENTS EIGHTY EIGHT ONLY.

ACCEPTED 27/7/71 DATE PAYABLE AT [illegible]

[illegible] BANK [illegible] 3/5/71 [illegible] Londo[illegible]

Value received AGAINST INVOICE NO. 12/F/7[illegible]

To PAK-AM INC., 555 FIFTH AVENUE, NEW YO[illegible]
N.Y.10017, U.S.A. THROUGH:- IRVING TRU[illegible]
CO., MEDISON & 46TH STREET BRANCH,
NEW YORK.N.Y.10017, U.S.A.

N. J. M.

NISHAT JUTE MILLS LIMITED

Lf #F-787
rec 3/6/72

FOR NATIONAL BANK OF PAKISTAN

MANAGER

PURCHASE OR... D.21027.

No. 13/F/71-72

For US.$.719.51 7th August 19 71

At 180 DAYS SIGHT D/D of this ... of Exchange

(SECOND of the same tenor and date being ... pay to the order

of NATIONAL BANK OF PAKISTAN

the sum of U.S.DOLLAR SEVEN HUNDRED NINE ... CENTS FIFTYONEONLY.

ACCEPTED 8/12/71 DATE PAYABLE AT 16th FEB 1972 (Feb 13th 1972) Madison Ave.

PAK-AM INC.

NATIONAL BANK OF PAKISTAN
G.C. NO. 3/52/71
Local or Dep.

Value received AGAINST INVOICE NO.13/F/71-7...

To PAK-AM,INC.,555 FIFTH AVENUE:
NEW YORK:N.Y.10017,U.S.A.THROUGH:
IRVING TRUST CO.MADISON & 46TH
STREET BRANCH.NEW YORK:N.Y.10017,
U.S.A.

F 747 B
3/6/72

N. J. M.

NATIONAL BANK OF PAKISTAN
MANAGER

PURCHASE BILL NO. 21027.

No. 14/F/71-72

For U.S.$.327.34 Dacca 9th. August 1971

At 180 DAYS SIGHT D/P. of this FIRST of Exchange

(SECOND of the same tenor and date being unpaid) Pay to the order

of NATIONAL BANK OF PAKISTAN, DACCA.

the sum of U.S.DOLLAR THREE HUNDRED TWENTY SEVEN AND CENTS

THIRTY FOUR ONLY.

Value received AGAINST INVOICE NOS. 14/F/71-72 DATED 2/7/71

To PAA-AM, INC., 555 FIFTH AVENUE,
NEW YORK, N.Y.10017, U.S.A. THROUGH:
IRVING TRUST CO. PEARSON & 46TH
STREET BRANCH: NEW YORK: N.Y.10017, U.S.A.

NISHAT JUTE MILLS LIMITED

ACCEPTED 9/8/71 PAYABLE AT 46TH STREET BRANCH

Authorized Signature(s) 9/8/71

NATIONAL BANK OF PAKISTAN
F.C. No. 21527
Local Office, Dacca.

N. J. M.

L/C F747

Due 3/6/72

For NATIONAL BANK OF PAKISTAN

P. MANAGER

DRAWN UNDER CONTRACT NJM-D-125/F/70-71 DATED 2 71"
PUR E ORDER NO. 24264:

No 15/F/71-72.

For US.$.609.27

7/3/71 19 71

At 180 DAYS SIGHT D/P. of this Exchange

(SECOND of the same tenor and date unpaid to the order

of NATIONAL BANK OF PAKISTAN, DACCA

the sum of U.S.DOLLAR SIX HUNDRED NI TWENTY

ONLY.

RECEIVED 7/3/71 Irving Trust Company 45th St. at Madison Ave. New York, N.Y. 10017

DATE PAYABLE

NATIONAL BANK OF PAKISTAN B. O. NO. 2/15/71 Local Office Dacca

Value received AGAINST INVOICE NO. 15/F/71-

To PAK-AM INC, 555 FIFTH AVENUE, NEW YORK, N.Y.10017, U.S.A. THROUGH: IRVING TRUST CO, MEDISON & 46TH STREET BRANCH, NEW YORK, N.Y.10017, U.S.A.

N. J M.

P747f
3/6/72

NATIONAL BANK OF PAKISTAN
P. MANAGER

DRAWN UNDER CONTRACT N [illegible]-125/F/70-71 DATED [illegible]/71"

PURCHASE ORDER NO.24264

No 256A/F/70-71.

For US.$.509.32

5/8/ 1971.

At 180 DAYS SIGHT D/P. of this Bill of Exchange

(SECOND of the same tenor and date hereof) pay to the order

of NATIONAL BANK OF PAKISTAN DACCA

the sum of U.S.DOLLAR FIVE HUNDRED [illegible] AND CENTS THIRTY TWO

ONLY.

Value received AGAINST INVOICE NO.256A/F/[illegible]-71

To PAK-AM INC.,555 FIFTH AVENUE,
NEW YORK.N.Y.10017,U.S.A.
THROUGH:IRVING TRUST CO.MADISON &
46TH STREET BRANCH,NEW YORK.
N.Y.10017,U.S.A.

N. I. M.

NATIONAL BANK OF PAKISTAN
F. B. C. No 2/256/71
Head Office

NISHAT JUTE MILLS LIMITED

Ltr F747
re 3/6/72

1971 SEP-7 PM 2:28

for NATIONAL BANK OF PAKISTAN

"DRAWN UNDER CONTRACT . NJM-D-125/F/70-71 DATED 3-2-1971".

No 22/F/71-72 PURCHASE ORDER NO.24264.

For US.$.624.26 Dacca 8th October 1971

At 180 DAYS SIGHT D/A. of this FIRST of Exchange

(SECOND of the same tenor and date being unpaid) pay to the order

of NATIONAL BANK OF PAKISTAN:DACCA

the sum of U.S.DOLLAR SIX HUNDRED TWENTYFOUR AND CENTS TWENTYEIGHT ONLY.

3/58/71

Value received AGAINST INVOICE NO.22/F/71-72.

To PAK-AM,INC.,555 FIFTH AVENUE, NEW YORK,N.Y.10017,U.S.A.THROUGH: IRVING TRUST CO.,MEDISON & 46TH STREET BRANCH:NEW YORK:N.Y.1001 U. S. A.

NISHAT JUTE MILLS LIMITED

ACCEPTED

PAYABLE AT

PASSED

J. M.

DRAWN UNDER CONTRACT NO.NJK-D-125/F. [illegible] DATED [illegible]-71"

No. 22A/F/71-72. P.ORDER NO. 24261

For. US.$.22,648.41 Dacca 19/10/ [illegible]

At 180 DAYS SIGHT D/A [illegible] this FIRST of Exchange

(SECOND of the same tenor and date being unpaid) pay to the order

of NATIONAL BANK OF PAKISTAN, DACCA.

the sum of U.S.DOLLAR TWEN[illegible] TWO THOUSAND SIX HUNDRED FORTY-[illegible]

AND CENTS FORTY ONLY/CENTS

Value received AGAINST INVOIC[illegible] 22A/F/ NO.

To PAK-AM INC.,
555 FIFTH AVENUE, NEW YO[illegible]
U.S.A. THROUGH: IRVING TI[illegible]
46TH STREET PLAZA, NEW [illegible]
U.S.A.

NISHAT JUTE MILLS LIMITED

ACCEPTED

DATED

F 5/8P

5/8/72

RAWN UNDER CONTRACT NO. NJM-D-15/F/71-72 DATED [illegible]/7/71"

No. 23/F/71-72

For US.$.11,342.85 Dacca 15TH NOVEMBER, 71

At 180 DAYS SIGHT D/A of this FIRST of Exchange

(SECOND of the same tenor and date being unpaid) pay to the order

of NATIONAL BANK OF PAKISTAN: DACCA.

the sum of U.S.DOLLAR ELEVEN THOUSAND THREE HUNDRED

& CENTS EIGHTYFIVE ONLY.

Value received AGAINST INVOICE NO.23/F/71-72.

To PAK-AM,INC,555 FIFTH AVENUE:
NEW YORK:N.Y.10017,U.S.A.THROUGH
IRVING TRUST CO.MEDISON & 46TH
STREET BRANCH:NEW YORK:N.Y.10017,U.S.A.

NATIONAL B
F.B.C.

AUTHORISED

P. MANAGER

"DRAWN UNDER CONTRACT NO-NJM-D-125/F/71-72 D[illegible]/71

P.ORDER NO.2[illegible]

No 24/F/71-72

For US.$. 606.89

Date 15/11/

At 180 DAYS SIGHT [illegible]

SECOND of

(FIRST of this same tenor and date being unpaid pay to the

of NATIONAL BANK OF PAKI[illegible]

the sum of U.S.DOLLAR[illegible]

NINE ONLY.

Value received AGAINST INVOICE

To PAK-AM INC.,
555 FIFTH AVENUE, NEW YOR[illegible]
U.S.A.THROUGH: IRVING TRU[illegible]
46TH STREET BRANCH, NEW YO[illegible]
U.S.A.

NISHAT JUTE MILLS LIMITED

ACCEPTED 12/1/72

DATE PAYABLE

due 5/31/72
Coll. $529[illegible]

"DRAWN UNDER CONTRACT NO.NJM-D-125/F/71-72 DATED 23-4-71"

PURCHASE ORDER NO. [illegible]

No. 25/F/71-72.

For U.S.$.22,592.04

At 180 DAYS SIGHT D/A.

(FIRST of the same tenor and date (this Bill of Exchange being unpaid) pay to the order

of NATIONAL BANK OF PAK[illegible]

the sum of U.S.DOLLAR TWENTY[illegible] HUNDRED NINETY TWO AND CENTS FOUR [illegible]

Value received AGAINST INVOICE NO.

To PAK-AM INC., 555 FIFTH AVEN[illegible]
THROUGH:IRVING TRUST CO,HE[illegible]
46TH STREET BRANCH, NEW YO[illegible]
N.Y.10017, U.S.A.

NISHAT JUTE MILLS LIMITED

5/31/72
Q/H F5298

ACCEPTED 12/3/71 PAYABLE AT THE IRVING TRUST CO. 1 WALL STREET, NEW YORK

FOREIGN BILL

EXHIBIT 6 - WRITTEN INSTRUCTIONS TO IRVING TRUST CO. JA231

LAW OFFICES OF

WINTHROP, STIMSON, PUTNAM & ROBERTS

40 WALL STREET, NEW YORK, N. Y. 10005

MIDTOWN NEW YORK OFFICE
30 ROCKEFELLER PLAZA
NEW YORK, N. Y. 10020

AREA CODE 212-943-0700
CABLE "WINSTIM, N. Y." TELEX 62854

EUROPEAN OFFICE
6, CHEAPSIDE
LONDON, EC2V-6AA, ENGLAND
TELEPHONE: 01-236-2401
TELEX: WINCUT-883242
CABLE: WINSTIM, LONDON EC2

April 19, 1974

Re: National Bank of Pakistan v.
Cosmic International, Inc.

Mrs. Judith S. Kaye
Olwine, Connelly, Chase, O'Donnell
& Weyher
299 Park Avenue
New York, New York 10017

Dear Mrs. Kaye:

In response to your request of April 10, 1974, I enclose herewith photocopies of the written instructions given to Irving Trust Company relating to each of the drafts involved in your litigation. Copies of this letter and its attachments are also being forwarded to other counsel in this case.

Sincerely yours,

Theodore M. Weitz

Enclosures

cc: Nierenberg, Zeif & Weinstein
Burlingham Underwood & Lord

JA232

ORIGINAL LETTER TO CORRESPONDENT

49 (A) 2503

REGISTERED AIRMAIL.
NATIONAL BANK OF PAKISTAN
L.O. DACCA.

Address : MILLATBANK.

For collection We enclose undernoted documents

Date

Amount

M/s. Irving Trust Co.
Medisons and 45th Street br. New York, U.S.A.

Tenor	Our Reference No. which please quote
180 days sight	FBC-3/60/71

Drawer's Name & Address	Tenor reference No.	Due Date
M/s. Nishat Jute Mills Ltd. Dacca.	23/3/71-72	

For Account of	Drawee's Name & Address	Paid
M/s. Pak-Am-Inc. New York, U.S.A.	M/s. Pak Am Inc. 555 Fifth Avenue, New York, U.S.A.	

ments	Draft	B/Lading	Invoice	Specification	Cert/Origin	Insurance	Other documents
ned	1	242	2	4	1	-	-
llow	1	141	1	2			

ORIGINAL DOCUMENTS

B/L	L/C	C.INV.	INV.	I.CER.	Various
1	2		2		

CHANDISE : 34 Rolls of Carpet Backing cloth.

s. LONDON STATESMAN From Chittagong To Savannah.

se follow the instructions marked X.

unaccepted or unpaid advise us immediately by Cable

lving reason.

not paid within .....days after presentation/due date :-

a) Please return to us.

b) Please call for our instructions by cable/Airmail.

c) Refer to case of Need .....

dvise us when accepted stating due date.

ur charges to be collected from the Proceeds/drawee.

eliver documents against payment/acceptance charges to be ollected from the drawee.

ollect our charges of .....from the drawee

emit proceeds to by Airmail/Cable for our account quoting ur reference No.

dvise payment to us Cable/Airmail.

resent draft on arrival of goods.

n the event of dishonour protest/do not protest.

emit proceeds to us by Cable/Airmail.

Additional Instructions to be followed :-

Please acknowledge receipt of the documents and collect the proceeds of the documents at maturity and credit to our Head Office, Nay a/c under advice to us.

Meanwhile please advise us acceptance and maturity dates.

ALL CHARGES FOR THE ACCOUNT OF THE DRAWEE. PLEA COLLECT YOUR CHARGES, IF ANY, PLUS OUR CHARG

COLLECTION DEPARTMENT

Yours faithfully,

Manager.

lease acknowledge receipt quoting our reference number.

CC/ to : The Chief Accountant, Ed Accounts Dept. National Bank
Bank of Pakistan, Head Office, Karachi.
M/s. Nishat Jute Mills Ltd. 104, Motijheel C/A, Dacca

JA233

ORIGINAL LETTER TO CORRESPONDENT

9 (A) 253/

REGISTERED AIRMAIL.

NATIONAL BANK OF PAKISTAN
H.O. DACCA.

Date 29-11-71

Amount

Due

ress: MILLATBANK.

or collection We enclose undernoted documents

/s. Irving Trust Co.
edisons and 15th Street, N.
ew York, U.S.A.

F-529-P
140 -

Drawer's Name & Address	Tenor reference	Tenor	Our Reference No. which please quote
Chittagong Jute Mills Ltd. Dacca.	No. 24-25/F/71-72	180 days Sight. Due Date	FEC-3/62-29/71.

For Account of	Drawee's Name & Address	Paid
[illegible] New York, U.S.A.	M/s. [illegible] 555 Fifth Avenue, New York, U.S.A.	

nts	Draft	B/Lading	Invoice	Specification	Cert/Origin	Insurance	Other documents
	1	2+2	1	2	2	-	-
	1	1+1	1	1	-	-	

NDISE: 2477 Rolls of Carpet Backing cloth.

LONDON STATESMAN From Chittagong To New York

Clt. 2 | D/L 4 | C.I. | 2 | [illegible]

Vary the instructions marked X.

accepted or unpaid advise us immediately by ..... Cable .....

g reason.

t paid within .....days after presentation/due date :—

Please return to us.

Please call for our instructions by cable/Airmail.

Refer to case of Head.....

se us when accepted stating due date.

charges to be collected from the Proceeds/drawee.

r documents against payment/acceptance charges to be
ted from the drawee.

Our charges of.....from the drawee

proceeds to by Airmail/Cable for our account quoting
ference No.

o payment to us Cable/Airmail.

t draft on arrival of goods.

event of dishonour protest/do not potest.

proceeds to us by Cable/Airmail.

acknowledge receipt quoting our reference number.

Additional Instructions to be followed :—

Please acknowledge receipt of the documents and collect the proceeds at maturity and credit to our Head Office, Karachi a/c Admn. with you under advice to us.

Meanwhile please advise us acceptance and maturity dates.

FEC-3/61/71-
"/63/62/71

Dt. 23, 1971.

US CHARGES FOR THE ACCOUNT OF [illegible]

$7.50

Yours faithfully,

Manager.

) The Chief Accountant, FE Accounts Deptt.
National Bank of Pakistan, Head Office,
Karachi.

) M/s. Chittagong Jute Mills Ltd.,
104, Motijheel C/A, Dacca.

ORIGINAL LETTER TO CORRESPONDENT

Ex. 69 (A) 2248 4627 F518 NO

JA234

REGISTERED AIRMAIL.

NATIONAL BANK OF PAKISTAN
L.O. DACCA.

Date 28-10-71 [illegible]

Amount Rs.23,272.00

Cable address : MILLATBANK.

For collection We enclose undernoted documents

M/s.Irving Trust Co.
Medisons and 46th Street Br.
New York,U.S.A.

D/A due

Drawer's Name & Address	Tenor reference No.	Tenor	Due Date	Our Reference No. which please quote
M/s.Nishat Jute Mills Ltd. Dacca.	No.22 & 22A/F/71	180 days sight	1-72	EBM/FBC-3/58-59/

For Account of	Drawee's Name & Address	Paid
M/s.Rok-Mfg.Inc- New York,U.S.A.	M/s Rok-Mfg.Inc 555,Fifth Avenue,New York,U.S.A.	

Documents sent	Draft	B/Lading	Invoice	Specification	Cert/Origin	Insurance	Other Documents
Enclosed	1	2+2	2	2	2	-	-
To follow	-	1+1	2	1	-	-	

MERCHANDISE : 2 and 76 Rolls of Carpet Backing Cloth.

S. S. ARISTONIKOS/STEEL NAVIGATOR From CHITTAGONG To NEW YORK/MONTREAL

Please follow the instructions marked X.

- If unaccepted or unpaid advise us immediately by Cable giving reason.
- If not paid within .....days after presentation/due date :—
  - a) Please return to us.
  - b) Please call for our instructions by cable/Airmail.
  - c) Refer to case of Need .....
- Advise us when accepted stating due date.
- Our charges to be collected from the Proceeds/drawee.
- Deliver documents against payment/acceptance charges to be collected from the drawee.
- Debit our charges of.....from the drawee
- Remit proceeds to by Airmail/Cable for our account quoting our reference No.
- Advise payment to us Cable/Airmail.
- Account draft on arrival of goods.
- In the event of dishonour protest/do not protest.
- Remit proceeds to us by Cable/Airmail.

Additional Instructions to be followed :—

Please collect the bill proceeds at maturity and credit the proceeds to our Head Office, Karachi A/c. and advice to us.

Cable.

Meanwhile, please advise us the maturity and acceptance date.

FBC-3/58/71- Rs. 684.00
" 3/59/71 22,588.00
Rs. 23,272.00

DOCUMENTS HAVE BEEN RELEASED AGAINST TRUST RECEIPT IN ACCORDANCE WITH YOUR INSTRUCTIONS

7.50

Please acknowledge receipt quoting our reference number.

Yours faithfully,

Manager.

To: 1) The Chief Accountant, Ex Accounts Dept. National Bank of Pakistan, Head Office, Karachi for information.
2) M/s.Nishat Jute Mills Ltd., 104, Motijheel C/A, Dacca.

COLLECTION DEPARTMENT

ORIGINAL LETTER TO CORRESPONDENT

JA235

49 (A)

1404 -

F 74 SP NO

to 46 st...

REGISTERED AIRMAIL.

NATIONAL BANK OF PAKISTAN
L.O. DACCA.

Address : MILLATBANK.

For collection We enclose undern oted documents

Date 11-8-71

Amount Rs (Rs.19,439.05)

s.Irving Trust Co.
edisons and 46th Street Br.
ew York, U.S.A.

due 6/12

Tenor	Our Reference No. which please quote
180 days sight	FBC/3/43-52/71

Drawer's Name & Address	Tenor reference	Due Date
s.Nishat Jute Mills Ltd., Dacca.	No9-12/E/71-72	

For Account of	Drawee's Name & Address	Paid
RIK-MI-Inc. New York, U.S.A.	M/s RIK MI INC. 555 fifth Avenue, New York, USA.	

ments Rs.	Draft	B/Lading	Invoice	Specification	Cert/Origin	Insurance	Other Documents
sed	✓	2+2	3	-	2	-	
llow	✓	1+1	1	-	-	-	ORIGINAL

CHANDISE : 45,5,10 and 8 Rolls of Carpet Backing cloth.

s. Bullumbo From Chittagong To Savannah.

to follow the instructions marked X.

unaccepted or unpaid advise us immediately by Cable giving reason.

not paid within .....days after presentation/due date :—

a) Please return to us.

b) Please call for our instructions by cable/Airmail.

c) Refer to case of Need .....

dvise us when accepted stating due date.

our charges to be collected from the drawee/Bank.

eliver documents against payment/acceptance charges to be collected from the drawee.

ct our charges of.....from the drawee

emit proceeds to by Airmail/Cable for our account quoting ur reference No.

dvise payment to us Cable/Airmail.

resent draft on arrival of goods.

n the event of dishonour protest/do not protest.

omit proceeds to us by Cable/Airmail.

Additional instructions to be followed :—

Please collect the proceeds of the documents and credit same to our L.O.Karachi a/c with you under advice to us by cable.

Meanwhile, please advise us the acceptance and maturity dates of the following bills :

FBC-3/42/71 - Rs.18,633.10
" /49/71 - Rs. 783.12
" /50/71 - Rs. 4.26.83
" /51/71 - Rs. 17.00
Rs.19,439.05

Please acknowledge receipt quoting our reference number.

Yours faithfully,

Manager

1) The Chief Accountant, FE Accounts Deptt. National Bank of Pakistan, Head Office, Karachi.
2) M/s.Nishat Jute Mills Ltd., 104, Motijheel C/A, Dacca.

COLLECTION

F. Ex. 49 (A)

1405

ORIGINAL LETTER TO CORRESPONDENT

JA236

REGD. AIRMAIL

NATIONAL BANK OF PAKISTAN
Local Office, Dacca.

Cable Address : MILLATBANK.

Date 11.8.71

Amount $170[illegible].42

To For collection We enclose undern oted documents
C/s. Irving Trust Co.
Madisons and 48th Street Br.
New York, U.S.A.

Drawer's Name & Address	Tenor reference	Tenor	Our Reference No. which please quote
M/s. Nishat Jute Mills Ltd. Dacca.	No. 1, 1A, 2 & 2A/ F/71-72	180 days Sight	FBC3/44-47/71.
		Due Date	

For Account of	Drawee's Name & Address	Field
M/s. Pak-Am-Inc New York. U.S.A.	M/s. Pak-Am-Inc 555th Avenue, New York, NY USA	

Documents conta.	Draft	B/Lading	Invoice	Specification	Cert/Origin	Insurance	Other documents
Enclosed	1/2	2 + 2	3	2	2	—	—
To follow	1/2	1 + 1	1	1	—	—	—

MERCHANDISE: 32, 3, 22 and 1 Rolls of Carpet Backing Cloth.

per s. s. Aristotholos at Colombo From Chittagong To Savannah

Please follow the instructions marked X.

- If unaccepted or unpaid advise us immediately by ..... Cable giving reason.
- If not paid within .....days after presentation/due date :—
  - (a) Please return to us.
  - (b) Please call for our instructions by cable/Airmail.
  - (c) Refer to case of Need .....
- Advise us when accepted stating due date.
- Your charges to be collected from [illegible] Karachi.
- Deliver documents against payment/acceptance charges to be collected from the drawee.
- Collect our charges of .....from the drawee
- Remit proceeds to by Airmail/Cable for our account quoting our reference No.
- Advise payment to us Cable/Airmail
- Present draft on arrival of goods.
- In the event of dishonour protest/do not protest.
- Remit proceeds to us by Cable/Airmail.

Additional instructions to be followed :—

Please collect the proceeds of documents at maturity and credit to our Head Office, Karachi c/o us advise to us.

Meanwhile please advise us [illegible] and acceptance dates of the [illegible] bills.

FBC3/44/71	$ 102[illegible].[illegible]
45/71	1185.54
46/71	5360.[illegible]
47/71	[illegible]
	$17084.42

Please acknowledge receipt quoting our reference number.

to:
The Chief Accountant, FE Accounts Deptt.
National Bank of Pakistan, Head Office, Karachi.
M/s. Nishat Jute Mills Ltd.
104 Motijheel Commercial Area, Dacca.

Yours faithfully,

Manager.

DEPARTMENT

JA237

1647

DUPLICATE LETTER FOR CORRESPONDENT

Fr. 49 (A)

F334P

NATIONAL BANK OF PAKISTAN

Address : NILLATBANK.

For collection We enclose undernoted documents

Date

Amount

	Tenor		Our Reference No. which please quote
Amount of	Drawer's Name & Address		

Documents	Draft	B/Lading	Invoice	Specification	Certificate	Insurance	Other documents
Received							
Forwarded							

REMARKS :

From

Kindly advise us immediately by

days after presentation/due date :—

Please credit us.

Please call for our instructions by cable/Airmail.

Please accept and hold.

charges to be collected from the drawee.

Please debit against acceptance charges to be collected from the drawee.

Please debit our account with you for charges to be collected from the drawee.

Please credit our account with you for our account quoting our reference No.

Please pay proceeds to us Cable/Airmail.

Please return unpaid if unable.

In the event of dishonour protest/do not protest.

Please remit proceeds to us by Cable/Airmail.

Please acknowledge receipt quoting our reference number.

Yours faithfully,

For Principal Executive Officer, National Bank of Pakistan,

To Messrs. Nillo Ltd, 103, Motijheel Shopping Centre, Dacca.

Manager.

EXHIBIT 7 - OMITTED BY CONSENT OF COUNSEL

EXHIBIT 8 - COPY OF HEAD OFFICE MEMO NUMBER 38? JA239

MEMO NO: 38?

CREDIT FACILITIES -
MESSRS NISHAT JUTE MILLS LTD.,
(RENEWAL)

PUBLIC LIMITED COMPANY, incorporated in Karachi in December, 1955

AUTHORISED CAPITAL : Rs. 1,00,00,000

PAID-UP-CAPITAL : Rs. 80,00,000

RESERVES : Rs. 47,50,000

DIRECTORS :

1) Mr. Miah Mohd. Ayoob, Managing Director.
2) Mr. Miah Mohd. Rafique.
3) Mr. Miah Mohd. Farooq.
4) Mr. Miah Rauf Ayoob.
5) Mr. Miah Riaz Ahmed.
6) Mr. Miah Mohd. Hanif.

The Committee of the Board on 24th August, 1968 renewed the cash credit limit of Rs. 71 lac granted to the above-named borrowers. The currency of the limit expired on 30th June, 1969. Subsequently, their cash credit limit could not be renewed due to non-compliance of certain formalities regarding creation of mortgage and non-availability of a reconciliation certificate regarding the difference in their stocks as shown in the Balance Sheet and in the statement of stocks submitted by the borrowers to the Bank.

Satisfactory reconciliation statements have now been tendered by the borrowers to account for the difference.

They also enjoy credit facilities with us by way of Foreign Bill Purchase limit of Rs.10 lac, P.C.C. limit of Rs. 14 lac and Import L/C limit of Rs. 3 lac.

Credit facilities have also been extended to their sister concerns, a list of which is enclosed.

The borrowers were also granted a cash credit limit of Rs. 6 lac against equitable mortgage of Fixed Assets. Proper creation of mortgage on their Fixed Assets could not be completed due to non-availability of proper documents to be executed by the Government of East Pakistan regarding the allotment of land and as such some special documents were executed by the borrowers to secure a charge on land, buildings and machinery on the advice of Mr. Ariff.

Their outstandings against Fixed Assets have been liquidated.

Deputy Managing Director, Dacca states vide his letter No. BCD:IO:NJM/3619 dated 8th May,1970 "that a limit of Rs. 6 lac was sanctioned to the borrowers against fixed assets during 1968-69. They have already liquidated the advance and do not require this facility now. The formalities of mortgage could not be completed in the absence of title deeds in borrower's favour and as no loan is required against the fixed assets, our insistence for completion of the formalities for the mortgage will not be well received by the borrowers". In this connection, it may be pointed out that this mortgage also covers cash credit limit granted to the borrowers by way of hypothecation. Deputy Managing Director, Dacca has already been advised to discuss the matter further with Bank's Legal Adviser and additional documents may be obtained if he considers necessary in order to continue the mortgage of the Fixed Assets. We have been informed by Local Office, Dacca that the mortgage charge has also been registered with the Registrar of Joint Stock Companies at Karachi for Rs. 97,03,222/- which also covers the present total liabilities of the borrowers with the Bank.

The Mill is situated at Tongi at a distance of 15 miles from Dacca City on an area of 22.4 acres and is equipped with 250 hessian looms in Unit No.A, 75 in Unit No.B, 2 Carpet backing looms in Unit No.C and 25 broad looms in Unit No.D and 5300 spindles in the four units operating in three shifts daily with an average monthly production of 350 tons of hessian, 200 tons of sacking and 100 tons of carpet backing cloth. The Directors are respectable and well reputed industrialists of Pakistan.

Data regarding utilisation of their limit is given below :-

a) Debit summations	:	Rs. 1,71,83,000
b) Credit summations	:	Rs. 1,73,67,000
c) Highest debit balance	:	Rs. 71,05,000
d) Lowest debit balance	:	Rs. 61,85,498
e) Present Outstanding.	:	Rs. 65,47,000
f) Interest earned	:	Rs. 5,[illegible],000
g) Exports Bills routed through us during the last year.	:	Rs. 77,25,000
h) Exports Bills routed through us (January,70 to June, 1970)	:	Rs. 73,26,000

The export figures are likely to go up by the end of the year.

Their balance sheet as on 30th June, 1970 is summarized below :-

(Figures in thousands)

LIABILITIES		Rs	ASSETS		Rs
PAID UP CAPITAL		80,00	Fixed Assets(at cost)		214,24
RESERVE & SURPLUS					
a) General Reserve	47,50		Current Assets :		
b) Profit & Loss A/c	49	47,99	1) Stores and Spares	12,32	
PROVISIONS			2) Stock-in-trade	41,26	
For Taxation	9,14		3) Book Debts	11,00	
Depreciation	83,19	92,33	4) Advances and Deposits.	55,81	
Long-term Liabilities:			5) Investment (at cost)	13	
i) E.P.I.D.C.	8,41		6) Cash & Bank Balance	71	121,23
ii) Workers participation fund.	82	9,23			
Current Liabilities:					
a) Borrowings against stocks from NBP:	60,49				
b) Unsecured Overdraft from UBL :	2,97				
Sundry Liabilities :					
i) For Goods.	12,95				
ii) Expenses.	14,23				
iii) Other finances.	7,28				
d) Proposed Dividend:	8,00	105,92			
Total:		335,47			335,47

DMD/Dacca has reported that the account of Nishat Jute Mills Ltd has been conducted satisfactorily. He has recommended renewal of their limits on the following terms and conditions, which I endorse :-

LIMIT : Rs. 71,00,000/-.

SECURITY :

(a) Hypothecation of raw jute (baled and loose) finished products, stock in process, stock in transit from purchasing centres to Mills and Mill stores and spare parts (advances against stock in transit, stock in process and spare parts not to exceed 10% of the sanctioned limit in each case).

(b) Guarantee of all the directors of the Company in their personal capacity and their Managing Agents.

(c) Equitable mortgage on Company's fixed assets valued at Rs.53,50,000/- to cover this limit will continue.

(d) A charge on Company's book debts and [illegible] stock in trade and fixed assets [illegible]

MARGIN : 20% on baled jute, finished products and spare parts.
40% on loose jute and stock in process.

INTEREST : 3½% above Bank Rate, Minimum 8½%.

PERIOD : Upto 30th June, 1971.

PACKING CASH CREDIT :

LIMIT : Rs. 14,00,000/-.

SECURITY : RR/SR evidencing despatch of goods to the Port of shipment.(Letter of guarantee from clearing agent and trust letter from the borrowers).

INSURANCE : Insurance cover note for the transit period.

ADDITIONAL SECURITY : Goods are be insured with an approved Insurance Company from the date of railment till their shipment.

DOCUMENTS: D.P.Note and Trust receipts from the borrowers.

MARGIN : 20%.

INTEREST : 3% above Bank Rate [illegible].

REPAYMENT: Against negotiation of export documents to be submitted from time to time.

PERIOD : for 12 months (Upto 30-6-1971).

FOREIGN BILLS PURCHASE :

LIMIT : Rs. 14,00,000/-.

SECURITY: Shipping documents consisting of Bills of Exchange, Bill of Lading and Commercial Invoices.

MARGIN : 25%.

INTEREST: 3% above Bank Rate, Minimum 8%.

INSURANCE: In case of FOB Contracts Insurance to be covered by the buyer abroad and in case of CIF Contracts insurance will be covered by the borrowers.

PERIOD : For 12 months (Upto 30-6-1971).

MODE OF REPAYMENT: Repayment will be made by way of negotiation/collection of export documents.

IMPORT L/C LIMIT :

LIMIT : Rs. 3 lac.

SECURITY: Documents of title to goods imported under the L/C opened through us for consumption in their jute mills.

INSURANCE : Duly insured where necessary.

-contd.,

DOCUMENTS	:	Stamped L/C application duly signed in each case.
MARGIN	:	15% (subject to State Bank of Pakistan restrictions).
INTEREST	:	Commission/Interest and Exchange as per usual tariff.
SOURCE OF REPAYMENT	:	Retirement of documents by the borrowers against payment.
PERIOD	:	One year from the date of sanction (Upto 30-6-1971).

If approved, the following resolution may be passed :

RESOLVED -

that a Cash Credit limit of Rs. 71 lac, Packing Cash Credit Limit of Rs. 14 lac, Foreign Bill Purchase limit of Rs. 14 lac and Import L/C Limit of Rs. 3 lac be renewed upto 30th June, 1971 on the terms and conditions as contained in the Managing Director's Memo No. 362- dated 10.11.1970

(M. ANWAR QADIR)
MANAGING DIRECTOR

NATIONAL BANK OF PAKISTAN
ADVANCES DEPARTMENT
HEAD OFFICE
KARACHI

Dated: 10.11.1970

PARTICULARS OF CREDIT FACILITIES
EXTENDED TO THE ALLIED CONCERNS
OF NISHAT JUTE MILLS LIMITED:

1. NISHAT MILLS LIMITED:

Cash Credit against pledge/hypothecation of stocks.... Rs. 80,00,000/-

2. TAGAIL COTTON MILLS LIMITED:

(a) Cash Credit against pledge/hypothecation of stocks and an agreement to create second mortgage on the fixed assets of the company. ---------- Rs. 22,00,000/-

(b) Import L/C limit ---------- Rs. 1,00,000/-

3. NISHAT SARHAD TEXTILE MILLS LIMITED:

(a) Cash Credit against pledge/hypothecation of stocks ---------- Rs. 25,00,000/-

(b) Cash Credit against stock in transit meant for export ---------- Rs. 2,00,000/-

(c) Cash Credit against fixed assets:--------- Rs. 6,00,000/-

EXHIBIT 9 - THE BANGLADESH GAZETTE OF MAY 23, 1972

(Omitted here but printed at P. JA70)

EXHIBIT 10 - BANGLADESH ABANDONED PROPERTY (CONTROL, MANAGEMENT AND DISPOSAL) ORDER 1972

(Omitted here but printed at P. JA74)

SUPPLEMENTAL STIPULATION OF FACTS, SONALI CASE (Filed April 2, 1975)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SONALI BANK and NISHAT JUTE MILLS, LTD., Plaintiffs, - against - IRVING TRUST COMPANY and COSMIC INTERNATIONAL, INC., Defendants.	:	73 Civ. 853 CLB
	:	SUPPLEMENTAL STIPULATION
NISHAT JUTE MILLS, LTD. and NATIONAL BANK OF PAKISTAN, Plaintiffs, - against - COSMIC INTERNATIONAL, INC., Defendant.	:	73 Civ. 2736 CLB
	:	(Consolidated Cases)

The undersigned hereby stipulate that, for this consolidation action only, and subject to all pertinent objections as to relevancy, the following statements are true:

1. The Managing Director of NBP has at all times been located in Karachi, Pakistan.

2. The Central Board of Directors of NBP for the year ended December 31, 1970, was as follows:

Name	Position	Address
M. Anwar Qadir	President, Managing Director	Head Office, NBP Karachi, W. Pakistan
Abdul Hamid	Director	Additional Secretary to Government of Pakistan Ministry of Finance W. Pakistan
Chowdhury Muhammad Sarwar	Director	c/o Salika Cottage 15 Jugi Nagar P.O. Wari Dacca, East Pakistan
Mir Khalilur Rahman	Director	c/o Daily Jang Jang House I. I. Chundrigar Road Karachi, West Pakistan
Abu Talib Dada	Director	c/o Dada, Ltd. Judia Bazar Ltd. Karachi, West Pakistan
S. C. Subjally	Director	c/o New Jubilee Insurance Co. Ltd. Jubilee Insurance House I. I. Chundrigar Road Karachi, West Pakistan
Mir Afzal Khan	Director	c/o Premier Sugar Mills & Distillery Co. Ltd. Mardan, West Pakistan
A. S. Mahmood Chowdhury	Director	Ameerbad Lodge Comilla Road Chandpur District Comilla, E. Pakistan
Khan Amir Abdullah Khan Rokhri	Director	Minwali Central Cooperative Bank Ltd. Minwali, W. Pakistan
A.H.M. Dadabhoy	Director	c/o Star Textile Mills Ltd. Bonaly Road Karachi, West Pakistan

Mrs. Anwara Begum	Director	184 Satmasjid Road Dhammandi Dacca, East Pakistan
Tajammal Hussain	Secretary	Head Office, NBP Karrachi, W. Pakistan

3. The Central Board of Directors of NBP for the year ended December 31, 1971, was as follows:

Name	Position	Address
A. Jamil Nishtar	Managing Director	Head Office, NBP Karachi, W. Pakistan
Abdur Raouf Shaikh	Director	Additional Secretary to Government of Pakistan Ministry of Finance, West Pakistan
Sardar Raisani	Director	Raitani House Nawab Raisini Quetta, West Pakistan
Khan Amir Abdullah Kan Rokhri	Director	Minwali Central Cooperative Bank Ltd. Minwali, W. Pakistan
Javid Saigol	Director	Saigol Bros. Ltd. Alfalah Bldg. Lahore, W. Pakistan
Abu Talib Dada	Director	Same as Paragraph 2
S. [illegible] Subjally	Director	"
Mir Khlilur Rahman	Director	"
Mrs. Anwar Begum	Director	"
Abdul Mahomed Ebrahim Manji	Director	Lakshani Building M. A. Jannah Road Karachi, W. Pakistan
Sakhawat Hosain	Director	Ehram Corp. Ltd. Tiger Mansion 69-17 Motijheel Commercial Area Dacca, E. Pakistan
Abu Sharf Masihur Rahman	Director	O. R. Nizam Road Chittagong, E. Pakistan
Saeed Akhtar	Secretary	Head Office, NBP Karachi, W. Pakistan

4. The Dacca Local Office was the main branch of NBP in East Pakistan.

5. The original documents evidencing the loan from NBP to Nishat in the instant case are located in the local office, Dacca, as it is customary to retain the original loan document at the branch where the loan is made.

New York, New York

October 18, 1974

OLWINE, CONNELLY, CHASE,
O'DONNELL & WEYHER

By _____
A Member of the Firm
Attorneys for Nishat Jute Mills
and National Bank of Pakistan
299 Park Avenue
New York, New York 10017
(212) 688-0400

NIERENBERG, ZEIF & WEINSTEIN

By _____
A Member of the Firm
Attorneys for Sonali Bank and
Nishat Jute Mills, Ltd.
230 Park Avenue
New York, New York 10017
(212) 679-1455

TRANSCRIPT OF PROCEEDINGS DATED OCTOBER 21, 1974

jbsr

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED BANK, LTD.,	
- v s -	72 Civ. 5209
COSMIC INTERNATIONAL, INC.	
JANATA BANK & AMIN JUTE MILLS, LTD.,	
- v s -	73 Civ. 393
COSMIC INTERNATIONAL, INC.	
SONALI BANK,	
- v s -	73 Civ. 858
COSMIC INTERNATIONAL, INC.	
NISHAT JUTE MILLS, LTD., & NATIONAL BANK OF PAKISTAN,	
- v s -	73 Civ. 2736
COSMIC INTERNATIONAL, INC.	

B e f o r e :

HON. CHARLES L. BRIEANT, JR.,

District Judge

New York, N. Y.
October 21, 1974 - 10:25 a.m.

Appearances:

NIERENBERG, ZEIF & WEINSTEIN, ESQS.,
Attorneys for Janata Bank and Amin Jute Mills, Ltd.,
By: SAUL WEINSTEIN, ESQ.,
RICHARD ZEIF, ESQ.
-and-
L. STERNLING ALD, ESQ., of Counsel.

OLWINE, CONNELLY, CHASE, O'DONNELL & SCHLESSINGER, ESQS.,
Attorneys for Nishat Jute Mills, Ltd.,
By: JUDITH KAYE, ESQ.
-and-
STEPHEN SCHLESSINGER, ESQ., of Counsel.

CARTER, LEDYARD & MILBURN, ESWA.,
Attorneys for United Bank, Ltd.
By: LOUIS STANTON, ESQ.

[Attorneys for Defendant,
Burlingham, Underwood & Lord, Esqs.,
by: ALEXANDER KRITZALIS, ESQ.,
were not present.]

THE COURT: Has the stipulation been resolved?

MR. WEINSTEIN: It has, your Honor.

THE COURT: Would you hand it to the Clerk, please?

MR. WEINSTEIN: There are two of them, your Honor.

THE COURT: I think I had best start taking the evidence and I will read these later on, gentlemen.

MR. STANTON: Your Honor, as respects evidence, in the United Bank case, may we deem as part of the record here the assignment which was made between Amin Jute Mills Limited and United Bank Limited and have been previously filed in this case, without separate reference?

THE COURT: I would certainly think so, Mr. Stanton.

I am regarding this as a joint file of all four actions. The actions, some of them, were consolidated by a former order but, to the extent that they are not consolidated, I am treating it as a joint trial and all evidence received will be considered in connection with each claim.

MR. STANTON: I merely wished to be sure that the document, the original of which is already on file in the court, is deemed part of the proceedings.

THE COURT: No one has any problem with that, do they?

MR. WEINSTEIN: I have no objection to that.

THE COURT: That will be done.

MR. STANTON: Then I offer the stipulation entered into between myself, as attorney for United Bank Limited, and Mr. Weinstein, as attorney for Janata and Amin Jute Mills, dated June 27, 1974, the original of which is also in the Court's possession.

I have another copy for the Court's convenience.

THE COURT: I have the original and you need not supply a copy but these stipulations will be considered as part of the record.

MR. STANTON: Now, sir, in so doing, I wish to reserve that I must object to the receipt in evidence of such parts of that stipulation that refer to the Bangladesh laws because our side maintains that those are irrelevant to the Court's decision in this case, the goods and the whole weight of the action being located in this country.

THE COURT: Your objection is solely as to relevance?

MR. STANTON: And materiality, of course.

THE COURT: Yes, of course.

MR. STANTON: Similarly, I would object to the

argument that the footnote which recites contentions of the parties but which do not contribute evidence or proof and they should await --

THE COURT: The Court knows the difference between contentions and evidence.

MR. STANTON: Thank you, sir, and I think on that basis we rest.

MR. WEINSTEIN: Would you stipulate that the original documents evidencing the loan from UBL to Amin in the instance case are located in the local office of Laldinghi East, Chittagong, as it is customary to return the original loan documents at the branch where it is made. That was not required by any law.

MR. STANTON: I will so stipulate, your Honor.

THE COURT: What records are we talking about?

MR. WEINSTEIN: There was a loan made by United Bank, Limited to the Jute Mill in question.

THE COURT: I understand that, but it is now stipulated that the documents concerning that loan were all located in Chittagong, is that correct?

MR. WEINSTEIN: That's correct.

THE COURT: I merely would like to amplify what type or sort of documents.

MR. WEINSTEIN: The loans, the mortgages, promisso-

notes, letters proving the loan, et cetera.

THE COURT: All right.

MR. STERN: Some of those documents may be retained in the head offices, your Honor, but the essential documents which would have to be placed in evidence to prove the loan, I think, are covered by the stipulation.

I might just, for the record, be sure that you have also received in evidence all the attachments to the stipulation.

THE COURT: Yes, subject to your objection as to relevance and materiality.

MRS. KAYE: Your Honor, speaking for plaintiffs National Bank of Pakistan and Nishat Jute Mills, we would also like to submit the stipulation entered into between the parties on October 18, 1974, as well as the supplemental stipulation of the same date and we make the same objection which Mr. Stanton has raised, which is as to the relevancy and materiality of the Bangladesh laws. We submit that they are neither relevant nor material to the present dispute.

THE COURT: But the Court has to take proof of them to decide that.

You may have an objection on the same grounds.

MRS. KAYE: Additionally, your Honor, we would

like to hand up two exhibits marked for identification as Plaintiffs' Exhibits 11 and 12, to which I understand Mr. Weinstein raises no objection, other than as to relevancy.

MR. WEINSTEIN: I do object as to relevancy. However, I have no objection to the remainder of the offer.

THE COURT: I will receive them in evidence subject to your reserved motion to strike them out.

** [Plaintiffs' Exhibits 11 and 12 received in evidence.]

THE COURT: Are you resting, too?

MRS. KAYE: There is one small reservation. I understand from Mr. Weinstein that he is presenting no factual testimony in our case against the National Bank of Pakistan and Nishat Jute Mills but that he will go forward with the evidence on the issues pertaining to the United Bank.

We have a single joint expert witness who will be testifying in due course in the order that the testimony develops and we also have in the courtroom, your Honor, and I would like to present to you, Mr. Haider Moto, who is a senior vice president of the National Bank of Pakistan.

If there are any questions raised as the evidence develops with respect to United Bank, Limited that perhaps raise a question as to the National Bank of Pakistan,

we would like to have an opportunity to present Mr. Haider Mota at that time.

THE COURT: All right.

MR. WEINSTEIN: In that case, I would proceed with calling witnesses in the United Bank, Limited case.

However, I would point out that there is an issue which Mrs. Kaye may not call a question of fact but may refer to as a question of law and that is the testimony as to the bond law which I understand is applicable in both cases.

THE COURT: I am taking this all as a joint trial record except if I am shown that it would operate to somebody's prejudice to do so.

You may call your witness, then.

K A Z I A B D U L M A Z I D, being first duly sworn by the Clerk of the Court, testified as follows;

DIRECT EXAMINATION

BY MR. WEINSTEIN:

Q Mr. Mazid, would you tell us what is your occupation?

A I am the Assistant General Manager of Janata Bank, looking after the interests of international and foreign transactions of the bank.

Q And how long have you been with Janata Bank?

A Since its inception.

Q Prior to that time, what was your position?

A That was in United Bank, Limited, working as branch manager in different branch for about twelve years.

Q In which branch were you immediately prior to Janata Bank coming into existence?

A In Khulna branch.

Q Prior to you being in the Khulna branch, where were you?

A I was in Faridpur.

Q How long were you at the Khulna branch?

A For three years.

Q How long before that were you at the Faridpur branch?

A One year.

Q Before Faridpur, what did you do?

A I was in Khulna, the Zonal Office.

Q What was your position in Khulna?

A Branch manager.

Q Was your position branch manager in Khulna after Faridpur, as well?

A Yes.

Q Are you familiar with the cash credit facilities

that were allowed to Amin Jute Mills, Limited, which were secured by a loan on Amin's raw jute, finished goods, stock in process, raw jute and finished goods implanted and general stores lying in the go-downs Amin at Chittagong which were allowed by United Bank, Limited?

A Could you repeat the question?

[Question read.]

A Yes.

Q Will you tell us, please, which branch of UBL paid the money to Amin for these loans?

A Chittagong branch.

MR. STANTON: Objected to as assuming a fact not in evidence. Whether the branch paid the money is the point.

THE COURT: The question may be reframed, obviating the objection.

Ask him what he knows about the making of the loans.

Q What do you know about the particular loans in question?

A This loan was approved and processed by the Chittagong branch in Bangladesh and it was sent to head office for ratification and the Chittagong branch allowed the loan to Amin Jute Mills.

THE COURT: What does "ratification" mean?

THE WITNESS: That's approval of the action of the branch.

Q Who made the initial decision to grant the loan to Amin? Who made the initial decision to grant the loan?

A The Chittagong branch.

Q Could you tell us who paid the money to Amin?

A The Chittagong branch.

Q Was the money paid to Amin repayable to a particular branch?

A Yes. To the Chittagong branch.

Q Where was that particular branch administered?

A In Chittagong by the Chittagong branch.

Q Did the branches of UBL have separate assets and ~~re~~liabilities?

A Yes.

Q To what extent were the assets and liabilities of UBL separated, either physically or by accounting methods?

A By both physically and by accounting methods.

Q Well, to what extent?

A To the fullest extent.

Q Did the branches maintain separate bookkeeping systems?

A Yes, they maintained separate bookkeeping in each branch.

Q When a branch was short of money, did it borrow from other branches or from the Head Office?

A Well, the branch, when it is short of funds, they borrow from branches who have surplus funds.

Q Were those loans repayable from one branch to another in UBL?

A Yes, with interest.

MR. WEINSTEIN: I have no further questions at this time.

THE COURT: Mr. Stanton, you may cross-examine.

CROSS-EXAMINATION

BY MR. STANTON:

Q Mr. Mazid, were these interbranch loans that you mentioned made with the approval of the Head Office at Karachi?

A No.

Q Could they be made without the approval of the Head Office at Karachi?

A Yes.

THE COURT: How many branches were there?

THE WITNESS: In Bangladesh.

Q And what was then East Pakistan?

A It was 237 branches, approximately.

THE COURT: And how many in West Pakistan?

THE WITNESS: Around 200. I can't tell the exact figure.

Q If I suggested to you that there were 34 branches in East Pakistan, would that --

A It is not correct.

Q Was all of the separate bookkeeping that you have referred to maintained internally within the bank as a whole?

A Could you repeat the question?

[Question read.]

MR. WEINSTEIN: I will object to that as to form.

THE COUPT: The form may be unclear. If the witness does not understand the question, he may say so.

Perhaps you should reframe it.

MR. STANTON: I will come back to it later.

THE COURT: I think the question is as to the branch, contained within the branch.

MR. STANTON: Or contained between the branches. I'll come back to it later.

Q Did you say you had been a branch manage. in different branches of United Bank, Limited for about twelve

years?

A Yes.

Q Which years were those?

A I joined in '63 and I was in the bank up to March '72.

Q You joined in '63 and you were there until '72?

A Yes.

Q For those twelve years?

A It makes --

Q '63 to '72?

A Sorry; ten years.

Q Would nine years be even better, from a banking point of view?

A Maybe, yes.

Q By whom were you appointed an officer, Mr. Mazid?

A By who?

Q Withdrawn.

You were an officer of United Bank, Limited, were you not?

A Yes.

Q Who appointed you an officer?

A The Khulna branch manager, regional branch manager.

Q What did the Head Office in Karachi have to do with it?

A Absolutely nothing.

Q Nothing?

A Nothing.

Q Mr. Mazid, let me show you --

THE COURT: Mark it for identification, please.

*** [Plaintiff United Exhibit U-1 marked for identification.]

MR. STANTON: I ask that be shown to the witness.

Q Does that letter bear your signature, Mr. Mazid?

A Yes.

Q Did you sign it on or about March 19, 1965?

A Yes. This was nothing to do with the appointment.

Q To whom is the letter addressed, Mr. Mazid?

A Chief accountant, United Bank, Karachi.

MR. STANTON: May I offer it in evidence?

MR. WEINSTEIN: No objection.

** [Plaintiff United Exhibit U-1 received in evidence.]

Q Why did you address this letter to the chief accountant in Karachi?

A I don't recollect exactly now.

Q It says: "Dear Sir: I thank you for your letter," which you identified, "confirming my service and express my gratitude for appreciating my services."

Why did you say that to him?

A Could you read it once again?

MR. STANTON: He doesn't have a copy. I am sorry we are short.

THE COURT: All right. I will show it to the witness. [Handing.]

A I don't recollect.

Q And then you note in the next paragraph that the chief accountant has confirmed your service in Officer's Grade 3, but in the last increment in June, '64, "You have very graciously promoted me to Officer's Grade 2."

Why were you writing him on that topic?

A I don't exactly remember.

Q Do you know the gentleman named Amir A. Siddiqui?

A Yes.

Q Are you acquainted with his signature?

A Yes.

[Plaintiff United Exhibit U-2 marked for identification.]

Q Is that Mr. Siddiqui's signature on Exhibit U-2?

A That's what I recollect, yes.

Q Try to keep your voice up, Mr. Mazid, so we can all hear you.

A So far I recollect, yes.

MR. STANTON: I offer it in evidence.

MR. WEINSTEIN: This document appears to be hearsay.

THE COURT: I'll take it solely on the subject of credibility; it is not hearsay as to that.

He acknowledges that he made the request therein referred to, does he?

MR. STANTON: I can ask him, if you wish.

THE COURT: I think you should.

Q Did you request leave from the middle of February, 1968, for a certain time for traveling expenses for yourself and your wife?

A I don't recollect.

Q If I said that it was in connection with your transfer as manager of the Faridpur branch, would that recall the circumstances to your mind?

A No.

MR. STANTON: May I ask that the witness be shown the document?

THE COURT: Yes. Would you look at the letter and see if that doesn't refresh your recollection that you made such a request?

[Pause.]

A I don't recollect whether I had made an applicatio

in connection with my transfer for this.

Q Were you an officer of the Zonal Office?

A Yes.

Q In December 1967?

A Yes.

Q What was the Zonal Office?

A It was attached to the Khulna branch.

Q It was attached to the Khulna branch?

A Yes.

Q Did it have any supervisory authority over all branches?

A Yes.

Q In East Pakistan?

A No, in the Khulna area.

Q How many branches were there in the Khulna area?

A I don't remember about the number of branches but it should be around 30.

Q Mr. Siddiqui's letter says that you had a proposed transfer as manager of the Faridpur branch; it's before you, in the second line of the letter.

In December of 1967 was there a proposal that you might be transferred as manager of the Faridpur branch?

A Yes.

Q Who had to approve that proposal?

A The regional manager at Khulna.

Q Who was he?

A Mr. Amir Siddiqui.

THE COURT: That's the author of that letter there, the man who wrote that letter?

THE WITNESS: Yes.

Q Was approval by the Head Office in Karachi of that arrangement required?

A I don't know.

THE COURT: Which arrangement is it?

MR. STANTON: I'm sorry. The question was ambiguous.

Q Do you know whether the Head Office in Karachi was required to approve your appointment as manager of the Faridpur branch before that appointment became effective?

A I don't know.

Q Do you know whether the Head Office in Karachi had to approve your request for traveling expenses before those traveling expenses would be allowed you?

A I don't recollect. It's not correct. I don't know.

Q Look at the other letter comprising part of U-2.

Do you recognize the signature of Mr. T. H. Burney?

A Yes.

Q Who was Mr. Burney?

A He was the executive vice president?

Q Where was his office?

A In Head Office, Karachi.

Q He was the executive vice president of what?

A East Pakistan branches.

Q You mean he was the man in Karachi who was in charge of the East Pakistan branch of United Limited?

A Not exactly.

Q Make it clearer, please.

A The branches had independent working, independent books, independent.

The branches were responsible to their own clients and Mr. Burney, the controller in the Head Office, had the general supervision on the branches.

Q He had the general supervision of the branches?

A Yes. Not on the working. On the day-to-day working of the branches.

Q But he was not concerned with the day-to-day working?

A Yes.

Q Were you told at some time that Mr. Burney had approved return passage for yourself and your wife to and

from Karachi?

A I don't recollect. I don't recollect.

Q Was it the usual course of business for this kind of approval to come from Karachi?

A Pardon?

[Question read.]

A Not necessary.

THE COURT: He is asking you whether it was customary.

A It was not customary.

Q In what kind of cases was it sought?

A Could you clarify it?

Q You don't understand the question?

A No.

Q When was approval required from Karachi?

A The branches, they had the authority to transact and approve an action and it was not necessary to obtain sanction from Head Office.

THE COURT: What was there about your own particular situation which required the letter which you are holding in your hand, Exhbit U-2 ?

A This was not within my knowledge.

MR. STANTON: I ask that that be marked as the next exhibit, a letter dated October 31, 1967

THE COURT: I will receive Exhibit U-2 in evidence.

[Plaintiff United Exhibit U-2 received in evidence.]

[Plaintiff United Exhibit U-3 marked for identification.]

Q In late 1967, Mr. Mazid, did you apply for a loan in order to enable you to purchase a car?

A Yes.

Q Was that a usual arrangement which the bank made available to its officers?

Withdrawn.

Did United Bank, Limited make facilities available to its officers for giving loans for their personal cars?

A Yes.

Q Did those loans have to be approved in Karachi?

A No.

Q Do you recognize the signature of Mr. Burney on the letter that you hold, Exhibit U-3?

A It's not signed.

Q Oh, it's not signed?

Did you ever receive a copy of this letter?

A No.

Q Was it Mr. Siddiqui who approved the loan for your car?

A Yes.

Q Did you ask Mr. Siddiqui to authorize the loan for your car?

A I don't recollect.

Q What did you do to obtain the loan for your car?

A Could the question be repeated?

[Question read.]

A Just to process the limit application, send it to Mr. Siddiqui.

Q You don't know what he did with it after that?

A No.

Q What was Mr. Siddiqui's job at that time?

A The regional manager.

Q What was the regional manager?

A He was having supervisory activities on the branches.

Q Where was he located?

A In Khulna.

MR. STANTON: I offer U-3 in evidence, your Honor.

MR. WEINSTEIN: Again, it is hearsay, your Honor.

THE COURT: Well, there is no proper foundation for it. The witness admits that he had a car loan and that

he arranged it through Mr. Siddiqui.

I will sustain the objection; no proper foundation.

Q Was it Mr. Siddiqui who advised you that the loan would be made available to you?

A Yes.

THE COURT: Did he tell you he would write to Burney about it?

THE WITNESS: No.

THE COURT: Did he tell you he would telephone to Burney?

THE WITNESS: No.

THE COURT: Did he mention Mr. Burney's name in any regard concerning the loan?

THE WITNESS: No.

MR. STANTON: I ask that these three documents be marked as Exhibit U-4, please.

[Plaintiff United Exhibit U-4 marked for identification.]

Q Mr. Mazid, did you sign the bottom letter in Exhibit U-4?

A Yes.

Q Have you had a chance to read that letter?

A Executive vice president, United Bank, Limited -- should I read it?

Q You need not read it out loud. Just read it to yourself so that you know what we are discussing.

[Pause.]

A Yes.

Q It's an application for a bonus, correct?

A An ex gratia bonus.

Q Yes, an ex gratia bonus.

A Not a regular bonus.

Q Your letter refers to Information Circular No. 253. What was an information circular?

A I don't exactly recollect the contents, but it must be in connection with ex gratia bonus.

Q Where would those information circulars come from and to whom would they be addressed?

[Question read.]

A They used to come from Head Office of United Bank, Karachi, hand-addressed to the bank managers.

Q What general matters did those information circulars concern themselves with?

A Please.

[Question read.]

A The general supervision and the policies of the bank.

Q Did this request for an ex gratia bonus requir

the approval of the Khulna officers?

A No.

Q Look at the letter in the middle of the three which are marked U-4.

Who is the author of that letter, Mr. Mazid?

A This was Head Office, Karachi.

Q Who was the author of the middle letter, the one on top of your letter?

A Assistant vice president.

Q What was his name? Do you recall? Can you read it?

A It has been signed on behalf of the assistant vice president.

THE COURT: He has asked you the name of the vice president whose signature is there on the middle page of Exhibit U-4.

THE WITNESS: I don't remember the signature.

Q Did you know that your request would require the approval of the Khulna office?

A No.

Q Can you give any reason why the assistant vice president in Khulna wrote to the executive vice president in Karachi with respect to your application?

MR. WEINSTEIN: If your Honor please, that

assumes a fact not in evidence. The document itself indicates that it was written by someone, some unnamed individual, for the assistant vice president but not by the assistant vice president, himself.

THE COURT: You see, I would presume regularity as to the second sheet in view of its age and it is on the letterhead of the East Pakistan Branch.

This witness has told us he doesn't know whose signature it is.

The initials are K.A.M. on the lower left corner.

Objection overruled.

[Question read.]

THE COURT: The question is, do you know why he did it, why the letter was written?

THE WITNESS: I don't know.

Q Do you remember whether it was customary that such a request would be forwarded through Khulna with its recommendation to Karachi?

A It was not customary.

Q This was an exception in this case?

A Maybe.

Q You don't recall?

A I don't recall.

Q You don't recall any reason why it would be so

exception?

A I don't.

MR. STANTON: I offer the exhibit in evidence, your Honor, including the cover letter.

MR. WEINSTEIN: I will object to the two top pages as being hearsay.

THE COURT: I am taking the third page and I believe that the other pages show a response to it. The Court understands he received the ex gratia bonus. Isn't that right? Is that clear?

Q Did you receive the bonus?

THE COURT: On the occasion of your marriage, did you receive the ex gratia bonus?

THE WITNESS: Yes.

THE COURT: Objection overruled. I will take the entire exhibit.

[Plaintiff United Exhibit U-4 received in evidence.]

Q Do you still have the top letter of Exhibit U-4 in front of you, Mr. Mazid?

A Yes.

Q Would you read into the record the last sentence of that letter?

THE COURT: That is not necessary, but him may

it to himself.

Q Do you see the last sentence? Was it required, as a matter of the bank's procedure, that the debit of such amounts be approved by the Karachi head office?

THE COURT: He is talking about the ex gratia bonus, in your case.

A Yes.

Q It was required?

A Yes.

[Plaintiff United Exhibit U-5 marked for identification.]

[Plaintiff United Exhibit U-5 handed to the witness.]

Q Have you read the exhibit?

A Yes.

Q Who was the manager of the Laldinghi East Branch on June 7, 1961?

A A. A. Shakoor.

Q Is that his signature which appears on this exhibit?

A Yes.

Q Was the branch required to ask for head office approval before debiting its income account?

A No.

THE COURT: In the circumstances of this letter, he is asking you, not generally; at least I assume that is the question.

MR. STANTON: That is correct.

A No, because this letter also says that the branch has debited and just wanted ratification of the action.

Q Was the branch required to ask for such ratification?

A Yes.

MR. STANTON: I offer it in evidence, your Honor.

MR. WEINSTEIN: No objection.

[Plaintiff United Exhibit U-6 received in evidence.]

[Plaintiff United Exhibit U-6 marked for identification.]

Q In 1967, you were the manager of the Satkhira Branch, were you not?

A Yes.

Q And this letter, U-6, was it addressed to you as branch manager? Is that not correct?

A I am not sure.

Q Who was Mr. Mundrawala?

A Executive vice president.

Q Where was he located?

A He was in Karachi.

Q Do you remember the subject of this letter having come to your attention?

A No.

Q Did you from time to time in your branch have temporary overdrafts?

A Yes. I had the authority to allow overdrafts to our clients.

Q You, from time to time, did allow temporary overdrafts to your clients, is that correct?

A Yes.

Q What is an excess over limits?

A It's a temporary facility.

Q Temporary borrowing facility to a customer?

A Yes.

Q And you had the authority to allow certain bank customers to go over limits temporarily, did you not?

A Yes.

Q Where did that authority come from?

A From the power of attorney I had from the bank.

Q From the power of attorney.

Where did the power of attorney come from?

A From the Head Office.

Q Do you have a copy of that power of attorney with you?

A No.

Q You didn't bring it?

A No.

MR. STANTON: May I call for one?

MR. WEINSTEIN: I don't have it.

I understand that it is available in Baldinghi, your Honor, but it is not in the courtroom today.

MR. STANTON: May I ask that this document be marked.

** [Plaintiff United Exhibit U-7 marked for identification.]

Q Is Exhibit U-7 the power of attorney to which you refer, Mr. Mazid?

A I can't really tell that this is exactly the form on which it has been given.

Q It appears to be, doesn't it?

A I am not sure.

Q Can you recollect any differences between that form and the power of attorney that you were referring to?

A It's quite a big document to remember. It's quite a big document to remember.

Q I am asking you if anything in those stricken you

as different from the form that you referred to a moment ago.

A It is not possible to give it.

THE COURT: Do you have your own witnesses here in your own behalf to put these documents in?

MR. STANTON: Yes, sir, I do. On this one I can.

THE COURT: Then why don't you do that, then. You had a paper like that to give you authority?

THE WITNESS: Yes.

THE COURT: And you think that paper is in Laldighi now?

THE WITNESS: Yes.

Q And Laldighi is under the control of yourself as assistant general manager, is it not?

A Yes.

Q Were the amounts of the temporary overdrafts and excess over limits at your branch under the general supervision and control of the Karachi Head Office?

A Advances were under the control of me and not the Head Office.

Q Advances were under the control of you?

A Yes.

Q What was under the control of Karachi?

A Nothing between the branches. The branches -- I used to control the advances and administered the advances, obtained the signature of documents from the borrowers, keep it in the branch, realized the money from the borrowers and sued parties in case of non-payment and, so, it had absolutely nothing to do with that.

Q If Karache had nothing to do with it, wouldn't you have been surprised to receive a letter like U-6?

MR. WEINSTEIN: I will object to that question.

THE COURT: Well, it's cross-examination. He may be asked about Exhibit U-6, as to whether he was surprised when he received it.

A I am not sure I received that paper.

Q You have no memory of having received it?

A Right.

Q Would such a letter have been unusual?

A Yes.

Q Were you ever refused some disbursement that you had requested from the Karache Head Office?

A In nine years of my banking, I don't know. I have not seen such a refusal, when it has been processed and approved by the branch.

MR. STANTON: Can I hear what you have there?

[Record read.]

Q Did Mr. Mundrawala have authority to ask you to take immediate steps to reduce the temporary overdrafts at your branch?

A He could suggest something but the action was the branch manager's.

Q Did he have the authority to remove a branch manager who didn't comply with his suggestion?

A It was the regional manager's action.

Q The regional manager was the one who did the removal; is that what you are saying?

A Yes.

Q Who removed the regional manger, if anybody? Who had the power to remove the regional manager?

A The Head Office.

THE COURT: Who?

A Mundrawala or, for that matter, whoever was holding his position.

MR. STANTON: I offer Exhibit U-6 in evidence.

[Plaintiff's United Exhibit U-6 received in evidence.]

[Plaintiff's United Exhibit U-8 marked for identification.]

Q Have you examined U-8, Mr. Mazid, which you hold in your hands?

A Yes.

Q What is it?

A It is a traveling expenses bill.

Q Is that your signature which appears over the line under which the words "Signature of Employee" are?

A Yes, both at the signature of employee and at the recommendation.

Q And also under the words "Recommended for Approval"?

A Yes.

Q Does this document reflect expenses you incurred on a trip on United Bank, Limited business?

A Yes.

Q Is the reason for your signature over the words, "Signature of Employee" to represent a certification by the employee that the expenses were correct?

A Yes.

Q What is the purpose of your signature under the words, "Recommended for Approval"?

A That was as the manager of the branch. I had approved this.

Q And you recommended it for approval.

You recommended this bill be paid?

A Yes.

Q To whom did you make that recommendation?

A To the Head Office.

Q Why did you do that?

A That was the system.

Q That was the system? Was that your answer?

A Yes.

Q What is the total amount of the bills involved in this document?

A 50 rupees.

Q In American dollars, what is that, in round numbers?

A In those days or now?

Q Take your choice.

THE COURT: Well, give us in those days.

Q It was about five dollars, wasn't it?

A Should be around that.

Q That ratio was about one to ten.

A Yes.

Q And isn't it --

A No, it's not that.

THE COURT: He is asking with reference to 1964, I imagine.

A 1964, it should be about $12.

Q It would be about $12 in those days?

A Yes.

Q Then the words at the bottom, "Sanctioned by" are followed by initials C.O.B. (E) in capital letters.

What do those initials stand for?

A The Controller of Branches.

Q C.O.B. stands for Controller of Branches?

A Yes.

Q What does E stand for?

A East Pakistan.

Q Was that an office, the Controller of Branches, East Pakistan?

A No. It's a separate office.

Q Where is that office located?

A In the Head Office.

Q Was that office held by some person?

A Yes.

Q And the approval of that person was required on documents such as this?

A Yes.

Q Was it after that approval was given that letters such as the June 1, 1964 letter, forming part of this exhibit would be written?

MR. STANTON: One should be a letter of transmittal and the other a letter of confirmation, your Honor.

THE COURT: Sorry, but Exhibit U-8A, which I have,

MR. STANTON: Yes, sir, it will be in a minute.

MR. WEINSTEIN: If he would show some relevance --

THE COURT: Well, Mr. Stanton said he will attempt to show relevance. It seems somewhat remote in time.

A Opening of branches.

Q Was all of the stationery for each branch or substantially all of the stationery for each branch supplied from the Head Office in Karachi?

A Yes, substantially.

MR. STANTON: I offer U-8 in evidence.

MR. WEINSTEIN: No objection.

*** [Plaintiff's Exhibit U-8 and U-8A received in evidence.]

THE COURT: Let's move along, if you will.

MR. STANTON: Yes, sir. I hand up Exhibit 9, consisting of three original pages.

*** [Plaintiff's Exhibit U-9 marked for identification.]

MR. WEINSTEIN: Your Honor, if we can shorten the trial, I will concede that he got approval from the Head Office for his personal expenses.

MR. STANTON: I will accept that concession, your Honor, and I am not trying to drag this out but the detail is necessary on the issues that have been presented.

THE COURT: If there are documents, perhaps you can offer the documents on consent and make a very brief statement of what they show.

You see, the witness has some language difficulty which makes it rather burdensome for the Court Reporter and, occasionally, for counsel and the Court and if you can cut through the matter by offering exhibits and telling us briefly what they state, I will excuse him from the room so that the discussion, if it is unavailing, will not be suggestive to him of what the questions and answers will be, if we have to continue with it.

Is it helpful to do that?

MR. STANTON: I think if your Honor wishes to proceed that way, I can do it with him on the stand.

THE COURT: Then show the documents that you have to Mr. Weinstein and let's cut right through them, if you can.

Exhibit U-9 is consented to, is it?

MR. WEINSTEIN: That's correct.

THE COURT: That's received.

[Plaintiff's Exhibit U-9 received in evidence.]

THE COURT: That's offered to show that --

MR. STANTON: That's offered to show that a difference of as little as 78 rupees in the method of

travel selected between two points was questioned by the Karachi Head Office and was then justified by the witness and that the Head Office again dictated the account to which the total bill, that is, 120 rupees, should be debited.

THE COURT: All right. Let's move ahead.

*** [Plaintiff's United Exhibit U-10 marked for identification.]

MR. WEINSTEIN: Your Honor, I will concede the admission of U-10 on the same basis.

THE COURT: All right. It's received for the same purposes as the prior exhibit, I take it.

MR. STANTON: Essentially, yes, sir.

THE COURT: To show the nature and the degree of control?

MR. STANTON: Yes. The travel bill gave no reason. Karachi inquired for the reason. Mr. Mazid justified justified by giving the reason and then Karachi okayed a sum of 30 rupees and we will submit this on the details and acuteness of the surveillance.

THE COURT: All right.

MR. WEINSTEIN: Your Honor, the documents speak for themselves.

THE COURT: They do, you see, but sometimes a

detailed examination of the witness would amplify or flesh out what the documents show and we are trying to cut that short.

MR. WEINSTEIN: I think in this particular instance we can cut through all of that.

(Plaintiff's United Exhibit U-10 received in evidence.)

THE COURT: If you can cut through some more of these matters, I will give you all an ex gratia bonus.

MR. STANTON: I have no desire to weary your Honor.

MR. WEINSTEIN: I think we have accomplished that in the stipulations that we have signed.

THE COURT: Then you will all have an ex gratia bonus.

Q You testified, Mr. Mazid, that Amin Jute Mills, Limited, had a cash credit advance; is that correct?

A Yes.

Q Let me show you a book bearing the words, "United Bank, Limited" and ask if you would turn to Pages 9 through 11 of that book and tell me if those instructions deal with cash credit advances.

THE COURT: Anything to be shown to the witness marked be marked for identification.

[Plaintiff's United Exhibit U-11 marked for identification.]

MR. STANTON: I will offer only the copy of the pages in evidence because the book is not my property.

THE COURT: All right, but don't show the witness that hasn't been marked for identification.

MR. STANTON: Yes, sir.

THE COURT: The question is, does he recognize that as a book of instructions of the bank?

MR. STANTON: Yes.

A This is not a book of accounts by the bank.

Q What is it?

A This was certain details of the advances, the use of advances.

Q Details given by whom?

A By the Head Office.

Q And given to whom?

A It is not given to every branches.

Q Doesn't each branch have a copy of that book?

A I don't think.

Q Do you know for sure.

A Not all the branches.

Q If you look at Page 9 of that book, does it deal with limit applications and sanction? Pages 9 to 11.

MR. WEINSTEIN: If your Honor please, the document speaks for itself.

THE COURT: He is attempting to authenticate the document through this witness. That's what I understand the purpose of the inquiry is. If the authenticity of the book and these particular pages that are sought to be offered is conceded, then we will go on to something else.

MR. WEINSTEIN: I cannot concede it until the witness identifies the book.

MR. STANTON: Well, I think maybe he has, in fact.

THE COURT: I am not certain that he has. The real question is was the book in use in the branch when he was manager of it.

A No.

Q Was a book similar to that in use in the branches when you were a branch manager?

A No.

Q What instructions did you have?

A Regarding?

Q Regarding limit applications for cash credit advances.

A The Head Office used to issue circulars from time to time.

Q They used to issue circulars?

A Yes.

Q Did the circulars require that the limit could be granted only after getting a limit sanction from the Head Office?

A No, not exactly.

Q Not exactly. What was it, exactly?

A The branches, on the basis of the power of attorneys, would process limit applications at the branch when the client maintains an account, approves it, the branch manager approves it and then sends it to Head Office for certification.

Q For what?

A Certification.

Q Certification?

A Ratification.

Q What happens if the Head Office didn't ratify?

A There is no --

Q Did the Head Office ever reduce the amount that was applied for?

A Well, they could do with the approval of the branch.

Q They could reduce the limit?

A With the consent of the branch giving the advance because the branch was the person who was aware of the

clients.

Q Was there any limit on the branch's authority to make credit advances?

A Yes.

Q What was the limit?

A I mean, there is no ceiling for it.

Q There was no ceiling?

A No.

Q On the branch?

A No.

Q Did the branch know how much money United Bank, Limited had?

A It's not necessary. It was not necessary. The branch could borrow in case they were short of funds.

Q Could they borrow from outside sources?

A Yes. They could borrow from the Central Bank, also.

Q Without the consent of United Bank, Limited?

A No. With the consent.

Q Was it required that an application in writing be made by the party to the branch in order to get an advance?

A Yes.

Q Then, did the branch take steps to investigate

the party who was applying for the loan?

A Yes.

Q Then, did the branch prepare a limit application form after its investigation?

A After the investigation.

Q Then, did the branch send the form to Karache?

A Yes.

Q Then, did the Head Office approve the limit in full or in part and then send back a copy of limit application to the branch?

A The Head Office, as I have told you before, the approval was at the branch. The branch manager is to examine the party. If they were satisfied that the client is good enough to get the advance, they approve it and send it in with the application to the Head Office.

The Head Office itself could not reduce or enhance the limit. They had to refer it back to the branch.

Q They would then tell the branch to raise or lower the limit?

A Yes, and give the reasons for it and, without the consent, it was not possible.

Q Could the Head Office impose conditions on the handling of the advance which were in addition to the conditions which the branch had suggested?

A Maybe at times.

Q And they did that from to time, didn't they?

A Yes.

Q And they did that with applications that you submitted?

A Yes.

[Plaintiff United Exhibit U-12 marked for identification.]

[Pause.]

Q Have you finished reading this exhibit, U-12, Mr. Mazid?

A Yes.

Q Who was the author of the letter dated 30-7-1969 concerning the cash credit limit application favoring that steel corporation?

A Myself.

Q Yourself?

A Yes.

Q Did you write that letter?

Did you write that letter?

A No. This was written by the officer dealing in the advance.

Q This was initialed by the officer dealing in the advance?

A No. It is my signature.

Q It is your signature, yes, sir.

I didn't understand your answer.

A This letter was drafted by the officer dealing in the advance and put to me for signature.

Q You approved the letter?

A Yes.

Q You didn't dictate it yourself?

A No.

Q Were you familiar with the Taj steel application for an advance?

A I don't recollect exactly this.

I don't recollect this part exactly now.

Q But the statements in the letter were true at the time that you signed it, were they not?

A Yes.

Q And the next document bears your signature, also, does it not, the confidential sanction advice?

A Yes.

Q Is it true that the left-hand portion of that document is to be filled in by the branch?

A Yes.

Q And the right-hand portion is to be filled in by the head office?

A Yes.

Q When this document goes from the branch to the Head Office, only the left-hand side is filled in; is that correct?

A Yes.

Q So, what appears on this document on the right-hand side was placed there by the Head Office in Karache?

A The special instructions?

Q Yes, the special instructions.

A Yes, it was given by the Head Office.

Q And they were instructions to the branch, I suppose.

A Yes. This was instruction in the sanction.

Q And those were instructions to the branch office, is that correct?

A Yes.

Q Is that signed by Mr. Burney?

A Yes.

Q He was the Executive Vice President in Karache at the time?

A Yes.

MR. STANTON: I offer U-12, your Honor.

MR. WEINSTEIN: No objection.

THE COURT: Received in evidence.

[Plaintiff United Exhibit U-12 received in evidence.]

Q Was this the usual method for handling such advances, Mr. Mazid? Is this an example of the usual method of handling advances?

A Yes.

Q When an advance was made, did the party receiving the advance execute a promissory note?

A Yes.

[Plaintiff United Exhibit U-13 marked for identification.]

Q Was the promissory note in the form or one of the forms which appears on Exhibit U-13, depending on whether the applicant was a corporation or an individual or a joint company?

A It varied.

Q The proper form from this stage would be utilized, is that correct?

A For the company, the Taj Steel Corporation? You mean to say that this --

Q I think maybe you have a different copy before you, Mr. Mazid.

Are you looking at Exhibit 13?

A This promissory note?

Q Yes. Are these the forms of promissory note which were used in such situations?

A It varied on the status of the client. For the individual, the first one would have been applicable.

Q Yes, and for a corporation, the second one would be applicable?

A Yes.

Q Then, what was the third one used for?

A For a partnership.

MR. STANTON: I offer it in evidence.

MR. WEINSTEIN: No objection.

THE COURT: Received.

*** [Plaintiff United Exhibit U-13 received in evidence.]

A [continuing] But along with this permission, there was not form of delivery.

Q That was another form and that was the hypothecation agreement?

A No. That was a letter of continuity.

Q A letter of continuity?

A Addressed to the branch and enclosing this form.

Q Of course the branch had no stockholders of its own, did it?

A No.

Q And the branch declared no dividends of its own?

A No.

Q What happened to the profits which were attributable to a branch office operation?

A It used to be pooled together. Some branches making profit and some branches making loss. It was pooled together to ascertain what was the total figure.

Q You mean for the United Bank, Limited operation as a whole?

A Yes.

MR. STANTON: May I ask this be marked.

[Plaintiff United Exhibit U-14 marked for identification.]

Q There was no separate board of directors for the branch, was there?

A No.

Q Do you have a copy of Exhibit 14 for identification before you?

A Yes.

Q Can you tell me what that is?

A This is the daily position of assets and liabilities of a particular branch.

Q What was it used for, this form?

A To ascertain the daily position of the branch.

Q What was done with it after the numbers were filled in and the position was ascertained?

A A copy of it is to be sent to Head Office Karache.

Q One copy retained in the branch office?

A One copy in the branch.

Q You are the general manager of the Janata Bank now, or assistant general manager?

A Assistant general manager.

Q Has Janata Bank commenced suit in Bangladesh on its claim which it is asserting here in this court? Do you know?

A I don't know.

Q Who is the legal advisor to the Janata Bank?

A Rafique-Ul-Huq.

Q Is he presently in court?

A Yes.

MR. STANTON : I offer 14 in evidence.

*** [Plaintiff United Exhibit U-14 received in evidence.]

THE COURT: Will there be redirect?

MR. WEINSTEIN: There will be, if I may have a moment.

THE COURT: Does anyone else wish to examine the witness?

MRS. KAYE: No questions, your Honor.

REDIRECT EXAMINATION

BY MR. WEINSTEIN:

Q Mr. Mazid, did you require any special approval for your personal affairs with the bank as distinguished from the affairs of the everyday dealing of the bank with its customers or clients?

A Yes. For personal matters, I needed a special approval of the office.

Q And those that were different were handled differently than the everyday business of the bank with its clients?

A Yes. That was not the business of the bank.

THE COURT: Anything else?

MR. STANTON: No questions.

THE COURT: You are excused.

[Witness excused.]

MR. WEINSTEIN: On behalf of Janata Bank I call Asrarul Hossain.

ASRARUL HOSSAIN, called as a witness on behalf of the plaintiff, Janata Bank, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WEINSTEIN:

Q What is your occupation?

A I am Senior Advocate, Supreme Court of Bangladesh and also Pakistan.

THE COURT: If you have the gentleman's qualifications written out, you may offer it in evidence to save time.

MR. WEINSTEIN: I don't, your Honor.

THE COURT: I would like to have that procedure followed with professionals when they are offered as experts. You may examine him. Go ahead.

Q Would you state your educational background.

A Well, I have passed the Master of Arts from Calcutta University; Bachelor of Law from University of Calcutta and Bachelor at Law from the Lincolns Inn, London, in 1947.

Q What courts are you admitted to practice before?

A Well, when I passed in London I signed the Rule of Barristers in London and then started my practice in the High Court of Calcutta.

Then, High Court of Ajudicata of Dacca and then Federal Court of Pakistan and then the Supreme Court of Pakistan and thereafter, Supreme Court of Bangladesh.

Q Have you read and are you familiar with a stipulation of facts that was entered into between counsel in the consolidated action entitled United Bank, Limited against Cosmic International, Inc., and Janata Bank and Amin Jute Mills, Limited, vs. Cosmic International Inc. and Irving Trust Company, dated June 27, 1974?

A Yes, sir.

Q By the way, before I proceed, are you the Attorney General or do you have any public position?

A Yes. I was the Additional Attorney General for Pakistan. I was the Advocate General, East Pakistan. I was also chairman of the Bar Counsel of East Pakistan, vice president of the Bar Association in Dacca, the High Court, and also associated with the National Bank of Pakistan as its legal advisor since its inception in 1950, right up to the time when Bangladesh became into existence.

I was also Pakistan's counsel in Geneva.

At present I was a Senior Advocate, Supreme Court of Pakistan and also Senior Advocate of the Supreme Court of Bangladesh.

THE COURT: Is that a public position? Do you

work for the Government?

A No. Senior Advocates are equal to the duty that you have. They have similar posts in the Supreme Court of India, also. The Senior Advocate and the Advocates and Attorneys. These are three different classes.

Q Mr. Hossain, assuming all of those facts as stated in that stipulation to be true, can you, with a reasonable degree of certainty, express an opinion as to whether on or subsequent to March 26, 1972, if an action were to be brought in the Courts of Bangladesh by Janata or Amin Jute Mills, Limited against Cosmic International, Inc. for the purchase price of the goods referred to in that stipulation, the Courts of Bangladesh would assume jurisdiction and render a judgment or decree in that suit ?

A Well, yes, because in our place it is governed which Section 20 of the Civil Procedure Code, which gives four different things, each one is good enough for jurisdiction of the High Court of the Court in Bangladesh.

The same position is in respect of Pakistan and also in respect of India because we follow the came of Civil Procedure Code and, in order to have jurisdiction you have to have either cause of action within that territory or the defendant resides there or the defendant carries on business or, if the defendant acquiesces into

the jurisdiction.

So these, anyone is good enough for the purpose of the Courts in Bangladesh to assume jurisdiction.

Q In your opinion, do any of those requirements exist in this case so as to give the Courts of Bangladesh jurisdiction over this cause of action?

A Yes, because the cause of action here in this case is wholly arising in the territories of now forming Bangladesh, namely, the contract of loan was entered there, so also the transaction also was there and you don't require the whole cause of action. Even the part of the cause of action gives the jurisdiction.

Q Is it your testimony that if a lawsuit were brought in Bangladesh, the Courts would render a judgment against Cosmic International?

A Yes, and also, as I have said, that if they carry on business even temporarily that also Section 20 takes care of and says that if you carry on business temporarily or reside temporarily and there is a cause of action, then the Courts will assume jurisdiction and if you acquiesce into it and in the instant case, Cosmic has not said that any place that, "We do not submit to the jurisdiction of the Bangladesh Government," apart from Bangladesh Courts, apart from the other points

which are good enough for getting jurisdiction of the Bangladesh Courts.

Q If I asked you the same question with regard to the stipulation entered into in the case of United Bank, Limited against Cosmic International, Inc., and Janata Bank and Amin Jute Mills, Limited, against Cosmic and Irving Trust Company, would your answers be the same?

A Yes. You had already asked that. You did not ask about Nishat.

THE COURT: All right. Ask him about Nishat.

Q If I asked you the same questions with regard to the consolidated action entitled Sonali Bank and Nishat Jute Mills, Limited against Irving Trust Company and Cosmic and Nishat Jute Mills, Limited and National Bank of Pakistan versus Cosmic International, Inc., would your answers be the same?

A Yes.

Q By the March 26th, 1972, Bangladesh Banks Nationalization Order 1972, which is attached to each of these stipulations as an exhibit, did the Government of the People's Republic of Bangladesh, under the laws of Bangladesh, transfer whatever claims were held by United Bank, Limited in one case and by National Bank of Pakistan in the other case, to the new banks that were created,

irrespective of where the claims were located?

A Yes.

MR. STANTON: May I have the question read?

THE COURT: Yes. I think, in effect, he is asking for an interpretation of a document. If so, the witness should be shown the document and asked other than a leading question.

Do you still want it read back?

MR. STANTON: I am conscious of the fact that the document involved may be in the stipulation which the witness has said he reviewed.

THE COURT: Is there an objection?

MR. STANTON: I really can't tell until I hear it read back.

[Record read.]

MR. WEINSTEIN: The document is in the stipulation.

THE COURT: Why don't you frame a new question.

Q I refer you now to the Bangladesh Banks and Nationalization Order of 1972 which is Exhibit 2 in the Sonali stipulation. I'll show you that one, [Handing.] and Exhibit 1 in the United Bank, Limited stipulation of facts.

A Yes.

Q I ask you whether under that order there was

transferred to the new banks created under that order assets which were located both inside and outside of Bangladesh.

A Yes.

Q And did that order under the interpretation of the laws of Banladesh transfer to the new banks the claims which are involved in the instant litigation?

A Yes. It is in Section 7.

MRS. KAYE: May I have that question read. I think it might be objectionable.

THE COURT: I do, too. Objection sustained.

The witness may be asked for his opinion.

Q Could you express an opinion with a reasonable degree of certainty under the laws of Bangladesh as to whether that Bangladesh Banks Nationalization Order transferred to the new banks created thereunder the claims which are the subject matter of these actions?

A Well, the schedule is in English and it is clearly stated in Section 7 that on the taking outside Bangladesh would also be transferred -- which arises in Bangladesh would also be transferred to the assets of the new banks constituted out of the old banks; and they have taken of the position of the extra territorial operations and they have said that if the laws of any other

country requires some provision to be taken and then steps have been authorized, the chief executive officer has been authorized to take all such steps as may be required by the laws of any such country outside Bangladesh for the purpose of effecting such transfer or vesting those in the new banks.

Q Is your answer to the foregoing question in the affirmative?

A I beg your pardon?

Q Is your answer to the foregoing question in the affirmative?

A Yes. I started it with an affirmative.

MR. WEINSTEIN: No further questions.

CROSS-EXAMINATION

BY MR. STANTON:

Q Mr. Hossain, is it your view that the Courts of Bangladesh would rule that this United States District Court is without jurisdiction to enter an effective judgment in this case?

A No.

Q Is your opinion as to the scope of the taking contained in the Nationalization Order to which you have just addressed your attention based solely on the meaning of the language contained in that order?

A Yes. That is why I started that it is in English and, in my opinion, it reads like that and that is, in my view, the correct interpretation.

Q Your view rests on your understanding of the English language?

A Yes.

MR. STANTON: Thank you; that's all.

THE COURT: Any redirect examination of the witness?

MRS. KAYE: Just one or two questions on cross, your Honor.

THE COURT: Sorry, Mrs. Kaye.

CROSS-EXAMINATION

BY MRS. KAYE:

Q Mr. Hossain, you testified that you were the legal advisor to the National Bank of Pakistan.

A Yes.

Q Was this an appointment that was made periodically by the bank?

A No. My appointment was made in 1960 by the Central Board of the National Bank of Pakistan and I am not aware of any such cancellation.

Q Has any action been brought against Cosmic in Bangladesh?

A No; not to my knowledge.

Q Referring to the stipulation in the Sonali Bank action, do you draw a distinction between the National Bank of Pakistan and the National Bank of Pakistan Dacca?

A Well, you see, the National Bank of Pakistan is not like any other companies formed. It was formed under a statute which is called the National Bank of Pakistance Ordinance of 1949 and that statute itself makes the distinction that areawise it was divided -- there was three areas: One was called the Dacca area, which was competent to deal with all matters in respect of East Pakistan territory, not Bangladesh, the Lahore.

Q Then the answer to the question is yes, you do draw a distinction between the National Bank of Pakistan and the National Bank of Pakistan Dacca?

A No. Why should it be yes because another one purpose is for the purposes of suing. You will have to sue in the name of the National Bank of Pakistan prior to 16 of December, '71.

Q Then, as I understand, a suit could only be brought against Cosmic in the name of National Bank of Pakistan?

A No, that would be if the suit had been brought up to 16 of December, '71, when there was only one bank

called the National Bank of Pakistan, but now, after this, there are -- it is split and therefore that is how it has to be now brought.

Q But the National Bank of Pakistan Dacca could not have brought the lawsuit against Cosmic.

A Of course it could have because all these, the local office, the transactions was in the territories of Bangladesh and therefore the National Bank of Pakistan local office which made the advances were the only competent office that could have brought the suit. The Head Office could not have brought the suit and if they brought the suit it would have been non-suited.

Q But it could only be --

A That is true because the statute says that it is body corporate and it can be sued and be sued in the name of National Bank of Bangladesh only.

The statute of the National Bank of Pakistan --

THE COURT: Why would it be non-suited if it brought a suit?

A In Karachi?

THE COURT: Yes.

A Because of Section 20, because neither the cause of action was there nor the defendants reside there, nor the business that was carried on was located

in West Pakistan.

THE COURT: This is before the inception of Bangladesh?

THE WITNESS: Even before the inception of Bangladesh, suit could not lie in West Pakistan.

Q Drawing your attention to Exhibit 10, the abandoned property law, that contains no provision relating to the extra territorial nature of the property, does it?

A Abandoned property has been defined by that statute and it says that if you left the territories of Bangladesh or if you are an absentee, then that property will vest in the government and it also says that if there is a country which was at war with the People's --

Q I'm sorry to interrupt.

Could you just answer the question which was that you pointed out to the Court under the Bank Nationalization Order that there was language related to property wherever located and you then referred to the provision actually providing the tools for enforcing the decree abroad.

Is there any such or are there any such tools under the abandoned property law?

MR. WEINSTEIN: If your Honor please, I will object.

THE COURT: Sustained.

MRS. KAYE: I have nothing further.

THE COURT: May I ask you, with respect to Clause 7, Subparagraph 1 on Page 3 of the Decree of Nationalization, the words are contained in there. "Property as were immediately before the commencement of this Order and the ownership, possession, power or control of the existing bank in relation to the undertaking within the territory of Bangladesh."

THE WITNESS: Yes.

THE COURT: Now, is there any basis for defining how it is determined that an asset was in relation to the undertaking within the territory?

THE WITNESS: Section 6, on the commencement of the Order, the undertaking of every existing bank shall be transferred to and shall vest in the new bank specified against such column in bank in Column 2 of the schedule.

THE COURT: I am referring to 7, Subparagraph 1.

THE WITNESS: It says on the taking of each existing bank shall be deemed to include all assets,

rights, powers, authorities and privileges and all properties, movable and immovable, cash balances, reserve funds, investments and all other rights in and arising out of such property as were immediately before the commencement of this Order in the ownership, possession, power or control or the existing bank in the relation of the undertaking within the territory of Bangladesh.

THE COURT: How do you determine whether something is in relation to the undertaking within the territory of Bangladesh?

THE WITNESS: The documents, the properties, immovable properties located, then the cash balances and other things which are at that time within the territories of Bangladesh would come within the new bank because the documents, papers and other things would naturally show that these are the things which are available in the territories of Bangladesh.

THE COURT: By available, you mean present?

THE WITNESS: Present, yes.

THE COURT: Thank you.

Is there anything else for this witness?

MR. WEINSTEIN: I have one question of the witness.

REDIRECT EXAMINATION

BY MR. WEINSTEIN:

Q On cross-examination you were asked whether if a suit were brought in Karachi by National Bank of Pakistan it would be non-suited.

You answered that it would be.

A Yes.

Q Would your answer be the same if, prior to December 16, 1971, the suit was brought in Dacca rather than in Karachi?

A The suit would be in Dacca because the cause of action was there and the part of the business, the defendant has carried on business there and the documents by which the suits are filed are all located and executed at Dacca and the branch, which is ultimately credited, would be in Dacca.

Q Then it is the Karachi Courts which would not have jurisdiction but in the Dacca Courts?

A Yes. And that is, there have been rulings to that effect by the Supreme Court of Pakistan itself.

THE COURT: What do you consider to be the cause of action? What type of a cause of action?

THE WITNESS: The cause of action of the suit would be the matters relating to them. Supposing if it

is a loan, then the question would be where the loan was granted, where the party is to be loaned, where the parties were bound to repay and where the parties have been notified and notices given from which branch and which place.

THE COURT: You are treating the underlying transaction here as a loan?

THE WITNESS: Yes.

THE COURT: Thank you. Anything else for this witness?

THE WITNESS: Not for the purposes of Nishat. but for the purposes of the American Courts, then the position would be, the answer would be that because the goods were supplied from them and the National Bank of Pakistan Dacca was specifically the person to whom the party had at that time authorized and said that the amount is to be credited to their account in the local office at Dacca.

THE COURT: All right. Anything else for this witness?

If not, he is excused and we will recess for lunch and resume at two o'clock.

[Witness excused.]

[Luncheon recess.]

R A F I Q U E - U L - H U Q, called as a witness by Plaintiff Janata Bank and Amin Jute Mills, Ltd., having been first duly sworn, testified as follows:

MR. WEINSTEIN: With the permission of counsel and the Court, I'll ask the witness if these are his qualifications as an expert, a legal expert on the law of Bangladesh.

THE COURT: If you want to mark the paper, I'll take it in evidence.

MR. WEINSTEIN: Will counsel concede it and we will make a copy?

MR. STANTON: Your Honor, I suggested this myself because I don't have a written statement in this form and I thought if I simply read it in, it would meet your Honor's prior observation.

THE COURT: All right.

MR. WEINSTEIN: An M.A. degree from Calcultta University in 1957; an L.L.B. degree from Calcutta University in 1958; Advocate, High Court of Calcutta, 1960; Barrister-at-law, 1961, call to the bar in 1962, assigned the role of barrister in the Queens Bench Division in London in 1962; joined the Dacca High Court in 1962; Advocate, Supreme Court of Pakistan in 1956; now Advocate, Supreme Court of Bangladesh and a lecturer, Dacca University law faculty between 1963 and

1969, and a legal adviser to three banks in Bangla Desh, including the Janata Bank.

DIRECT EXAMINATION

BY MR. WEINSTEIN:

Q Are those your qualifications?

A Yes.

Q Were you present during the testimony of Mr. Hossain?

A Yes.

Q If I asked you the same questions I asked of Mr. Hossain, would your answers be the same?

A Yes.

MR. WEINSTEIN: No further questions.

CROSS-EXAMINATION

BY MR. STANTON:

Q If I asked you the same questions on cross-examination which I asked Mr.Hossain, would your answers be the same as his?

A It is very difficult to say. You have to make a cross-examination the particular point you want because I may have something to add to what Mr. Hossain has said.

Q Well, in that case, I think I'll ask you: Are you the legal advisor to the Janata Bank as read into the record by Mr. Weinstein?

A Yes, I am legal adviser to the bank.

jb:mg 3 Rafique-Ul-Huq-cross

Q Has the Janata Bank brought any action in the couts of Bangla Desh upon the claim in issue here?

A It has not yet but could if wanted.

Q Mr. Huq, I think if you just answer the question -- the answer is that it has not yet, is that correct?

A Not yet.

MR. STANTON: That is all.

THE COURT: Mrs. Kaye?

MRS. KAYE: No questions.

THE COURT: Anything further?

MR. WEINSTEIN: No.

THE COURT: You are excused.

(Witness excused.)

MR. WEINSTEIN: At this point, your Honor, the Bangladesh plaintiffs will rest.

THE COURT: Is there anyone who has not rested?

MR. STANTON: We have a rebuttal.

THE COURT: You may have your rebuttal testimony, Mr. Stanton.

...

H A I D E R M O T A, called as a witness by United Bank Ltd., having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STANTON:

Q Mr. Haider Mota, may your professional qualifications be summarized as follows:

BA, Calcutta University, 1951. Barrister-at-law, Lincoln's Inn, London, qualified 1955. Enrolled as an advocate in the High Court of Dacca, 1956. Enrolled as an advocate, Supreme Court, Pakistan, 1961 or 1963. Private practice in Dacca from 1956 until March of 1971. From 1961 forward until March of 1971, a senior partner of Haider Mota and Hossain, which was one of the largest private firms in Dacca.

A That is correct.

Q Now, your partner--

THE COURT: Mr. Hossain, who was here, was your partner?

Q Who was your partner, Mr. Haider Mota?

A Dr. O. Kamal Hossain, who later became the law minister of Bangladesh and a draftsman of the constitution of Bangladesh and who is presently the foreign minister of Bangladesh.

THE COURT: Not the gentleman who was here this morning?

THE WITNESS: No.

Q What is the highest court in Pakistan?

A The Supreme Court of Pakistan.

Q Has the Supreme Court of Pakistan dealt with the quesion of whether a corporation can be sued in a place where the whole or a part of the cause of action has arisen if it is not generally located within that jurisdiction?

A Well, in a case reported in PLD 1960, Supreme Court Pakistan, on page 202, was called upon to answer the question whether a corporation which has a subordinate office at a place but no part of the cause of action arose at the subordinate place, could be sued at that place.

The Supreme Court held that a corporation can carry on business only at its principal place of business or, in the alternative, at a subordinate office provided a part or whole of cause of action arose at that place.

The Supreme Court in that judgment expressly left the question open whether a corporation can be sued at a place where neither part or the whole cause of action arose.

Q Can you identify the judgment that you are speaking of, Mr. Haider Mota?

A I think I might just -- may I correct it?

THE COURT: He wants to correct the answer.

Q Yes.

A The Supreme Court left the question open whether the corporation can be sued where it has neither the

principal office nor a branch office but a cause of action either wholly or in part arose.

Q Can you identify the case you are speaking of?

A This is the one, sir (indicating).

THE COURT: Do you wish to mark it for identification?

MR. STANTON: I think it is simpler. These are judicial materials but it helps us.

xx (Exhibit U-15 marked for identification.)

MR. STANTON: The decision is found in Pakistan Law Decisions 1960 Supreme Court(Pak) 202.

The name of the case is Rahmania Trading Company v. Eagle Star Insurance Company Limited and the clerk has a copy of it to be handed up to your Honor.

I may say copies of all of these authorities were supplied to the other side, your Honor.

I don't know whether you want these offered in evidence, your Honor. It is foreign law.

THE COURT: No. I'll permit you to offer them for identification, unless there is some prevailing purpose for offering them in evidence.

If you wish to offer them in evidence, you may.

It will be received in evidence.

xx (Exhibit U-15 received in evidence.)

jb:mg 7 Haider Mota-direct

Q What is the position of the High Court of East Pakistan at Dacca in relation to the position of the Supreme Court?

A It is a court subordinate to the Supreme Court but higher than the subordinate courts. It is in subordinate courts that the suits of unlimited pecuniary jurisdiction will be instituted.

Q In the Supreme Court case, the Eagle Star case, I believe you said that the Supreme Court restricted the definition of the words "carries on business."

A That's right.

Q In what way did it do that?

A The question that arose before the Supreme Court was that a corporation, Eagle Star Insurance Company, Limited, a foreign corporation, which had a registered office or a principal place in Karachi -- the corporation was sued in Chitagong where it had a branch office, but no part of the cause of action arose in Chitagong, and the Supreme Court held that corporation could be sued, or can be said to carry on business only at two of these places, namely, where it has the principal office or, in the alternative, where it has a subordinate office and where the cause of action either wholly or in part arose.

And the question that the Supreme Court left open

was whether a corporation can be sued at a place where neither it had the subordinate office nor head office but only cause of action either wholly or in part arose.

Q Is that question still open in that court as far as you know?

A Yes, sir.

Q Did the High Court of East Pakistan have occasion to deal with a similar problem?

A Well, in their judgment reported in PLD 1960 Dacca, on page 668, Bubna More & Company (Pakistan) Limited, vs. Modern Trading Company (Pakistan) Limited, a question arose in these circumstances.

There was a foreign company, not resident in Pakistan, entered into a contract through an agency in Pakistan. The contract was for the purchase of certain goods. When the goods reached, certain shortages were found and the importer sued both the agency and the foreign principal.

On these facts, a part of the cause of action had arisen in East Pakistan and the Court held that the plaintiff could not sue against the foreign corporation, reason being given that it had no fixed place of residence.

The Court went further and said that the judgment against a foreigner in absentia would be absolute nullity.

jb:mg 9 Haider Mota-direct

MR. STANTON: I offer it in evidence. It's been marked, I think, as Exhibit U-16.

THE COURT: Received in evidence.

xx (Exhibit U-16 received in evidence.)

Q Under what law is United Bank Limited incorporated?

A United Bank Limited is incorporated under the Companies Act, being a federal statute, 1913. Companies Act, 1913.

Q What is the effect of such incorporation under that act?

A United Bank Limited becomes a body corporate with its own assets, rights and liabilities. It is a juristic person, with perpetual succession.

Q Do you have a copy of the Companies Act which can be submitted to the Court?

A Yes.

Q A photocopy?

A A copy of the Companies Act, sir? Here it is. Would you like it?

THE COURT: This is a public statute we are talking about?

MR. STANTON: Yes, sir.

THE COURT: I'll take notice of the public statute, providing I am furnished with a copy which all counsel in

the case agree is a genuine copy.

MR. STANTON: Thank you very much, sir.

Q Under the Companies Act, can a branch of the United Bank Limited or any bank be considered as a separate entity, an entity separate from the main corporate body?

A No, sir.

Q Are a branch and the corporation separate juristic persons?

A No, sir.

Q What are the branches under that law?

A Branches are merely the agencies of the corporate body.

Q Are the principles of Company Law in Pakistan based upon the principles of English Company Law?

A Yes, in substance.

Q Would the courts in Pakistan follow the decisions of the Privy Council?

A Yes, sir, unless the decision lays down a principle which is contrary to specific law of the country.

Q Do you have any authority of the Privy Council concerning whether a branch of the bank can be considered a separate entity?

A Yes. There is a judgment reported in all England Reports, 1874-1880, on page 769, Prince and Others v. Oriental

Bank Corporation.

May I read the relevant portion?

THE COURT: If it is to be offered in evidence, there is no need to read it.

Are you offering it?

Q In general terms, what does that rule lay down?

Exhibit U-17 marked for identification.)

XX

A It says that branches are separate agencies but agencies of one principal, that principal being the corporation of the bank.

MR. STANTON: I'll offer it in evidence, your Honor. It's been marked as U-17.

THE COURT: Received in evidence.

(Exhibit U-17 received in evidence.)

xx

Q Do you have any other authority in which a relationship between a bank and its branch is discussed?

A Sir, I find in brief a very apt description in a book entitled "Leading Cases in the Law of Banking," by Lord Chorley, on page 289,and the learned author has discussed various English cases on the proposition of the relationship of the bank and its branches, and the learned author says that unless it is impracticable to insist upon, "the branch is an agency and the essential unity of the bank in all its branches, unless it is impracticable to

insist upon it."

The instance is given where the branches are sometimes treated as separate or, for example, the payment, to be effective, should be at the branch where the instrument is.

If a person has an account with the bank, the check should be drawn on the branch where the account is maintained but the author emphasizes the general proposition that the bank and its branches are one legal entity.

Q Would that treatise be accorded respect in the courts of Pakistan?

A Yes, sir.

MR. STANTON: I offer U-18 in evidence.

THE COURT: Received.

(Exhibit U-18 received in evidence.)

xx

Q Have you, in your research, come across any authority for the proposition that a branch of a bank can make a claim independent of and adverse to the corporate body as represented by the head office?

A In my research, I have not come across any proposition which suggests that a branch of a corporate body can make a claim independent and adverse of the corporate body as represented by the head office.

If I may add, I have not come across a case where

it has even been argued that a branch could make a claim against the corporate body.

Q Mr. Haider Mota, in Paragraph 5 of the stipulation which has been placed in evidence, there is a statement that, quoting, "The law of Pakistan required a corporation to file a list of the names and addresses of its directors with the appropriate authorities and to notify the authorities of any changes in that list."

What provision of the law of Pakistan contained that requirement?

A Section 87 of the Companies Act provides furnishing or filing with the registrar particulars of the directors--that is to say, their names and addresses. If any change occurs in the constitution of the board of directors, thoee particulars should also be filed with the registrar.

Q What is the effect of any default on such a filing?

A The effect of the default would be payment of a fine of rupees 50 which, on the present exchange rate, would be around $5.

Q Would a default in making such a required filing affect the residential status of the man who has changed his residence?

A None whatsoever. It has nothing to do with the status of the residence.

Q Would such a default affect the continuing corporate status of the corporation?

A Of course not.

Q Is the only effect of such a default the imposition of a fine of rupees 50?

A That is true, sir.

THE COURT: On the bank or on the director?

THE WITNESS: Sir, in case of persons who knowingly and wilfully default, they pay 50 rupees; otherwise, the company.

Q Mr. Haider Mota, would the courts in Pakistan give conclusive effect to the judgment of this court in this proceeding?

A Yes, sir.

MR. STANTON: Thank you.

That's all.

MS. KAYE: I have a few questions on direct.

Shall I proceed with them first?

DIRECT EXAMINATION

BY MS. KAYE:

THE COURT: Is the Court to understand that the private body of law in Bangladesh on the day following Independence was the same as that which had existed in Pakistan?

Perhaps this is not the witness to ask the question of.

Do counsel have an understanding? Is it the same as when the State of New York adopted the statutes and decisions of Britain?

MR. STANTON: If you are asking me, I think it is a pertinent question and I have no objection to the witness answering it.

THE COURT: I don't know that he knows.

THE WITNESS: Unless, sir, up to the fall of Dacca, unless they had made any amendment of which I am not aware, the Companies Act, which was in existence in Pakistan, continues to remain in force in Bangladesh.

THE COURT: Yes, but you see, you wouldn't know that of your own knowledge, would you? You don't practice in Bangladesh.

THE WITNESS: Since 1971, sir, I don't, but we do get Bangladesh gazettes in our office and there could be amendments which I might have overlooked, but I would say that the Companies Act as presently would be applicable in Bangladesh.

THE COURT: You may examine.

BY MS. KAYE:

Q Are you familiar with the stipulation which has

been signed in this matter?

A Yes, Madam.

Q Have you read the ordinance and the by-laws of the National Bank of Pakistan which are annexed as exhibits to the stipulation?

A Yes, Madam.

Q Under what law is the National Bank of Pakistan incorporated?

A The National Bank of Pakistan Ordinance 1949.

Q Is that the law of Pakistan?

A That's right. That is a federal statute of Pakistan.

Q Mr. Haider Mota, you have just testified as to principles and authorities governing the relationship between a branch and a corporate body in the case of United Bank Limited.

Do the same principles and authorities apply in the case of National Bank of Pakistan with respect to the relationship of the National Bank of Pakistan corporate body with its local offices and local boards?

A Yes, Madam. When the local board is not a branch, local office is the branch. The local board, although it has no juristic existence, there was certain decentralization of powers for the convenience of the functioning of the bank.

Otherwise, the answer is that as far as the relationship of the local office, which is the branch of the bank, and the corporate body, whatever I have stated in respect of United Bank Limited, would be equally applicable.

Q Are the shareholders registered on the local registers of the National Bank of Pakistan in Decca, Karachi and Lahore shareholders of the National Bank of Pakistan?

A Yes, Madam.

MR. STANTON: In response to the Court's question, your Honor, I am informed that in May of 1972 there was enacted in Bangladesh a Laws Continuation or Laws Continuance Act.

I don't have a copy of it to present in evidence and all I can do is make that statement of my information.

THE COURT: Well, nobody is foreclosed from addressing that issue. I assume that is the usual procedure followed when a nation achieves independence. We know it happened in New York.

MR. WEINSTEIN: May I have a few moments to confer with my experts before I proceed with the cross-examination?

THE COURT: Yes, you may.

(Pause.)

THE COURT: Could you begin, Mr. Weinstein?

MR. WEINSTEIN: Yes.

THE COURT: Time is important to us.

MR. STANTON: Let me invite your attention to Exhibit 9, I believe it is, annexed to the stipulation, the United Bank stipulation, and the last page of that exhibit is called the Laws Continuance Enforcement Order.

CROSS-EXAMINATION

BY MR. WEINSTEIN:

Q Mr. Haider Mota, in his questions to you, I noticed that Mr. Stanton carefully avoided --

THE COURT: No speeches like that. Just ask the man a question.

Q Is it your contention that the Section 20 of the Code of Civil Procedure applicable in Bangladesh does not confer jurisdiction on the courts of Bangledesh if an action were to be brought there against Cosmic?

A With the present state of law, unless the Supreme Court were to overrule the decision in Bubna Moore Company Pakistan Limited, I would say that the trial court-- that is the subject court before whom the suit would be brought -- would have to hold that it had no jurisdiction against Cosmic.

Q Well, let's look at the decisions that you referred to.

The first case is Eagle Star.

A Yes.

Q Now, before we get to that decision, would you tell me, what are the various bases of jurisdiction that can be asserted under Section 20?

THE COURT: Section 20 is the same in either country.

THE WITNESS: That's right.

THE COURT: Same number and same terms?

THE WITNESS: That's right.

A Against a foreign corporation, the suit can be instituted only, (1) if it has a principal office under Section 277 of the Companies Act, if it is a foreign corporation or it has a subordinate office where a part of the cause of action arose. You will not be entitled to institute a suit against a foreign corporation at a subordinate office if no part of the cause of action arose at that subordinate office.

And if the corporation resides there, that is to say, if the central management and control is located, then it could be sued there.

None of these conditions are present as far as Cosmic is concerned.

Only a part of the cause of action has arisen in

the territory now constituting Bangladesh and Bubna-Moore case, which is of the high court of East Pakistan, which is binding on a subordinate judge, lays down a further essential requirement to the effect that it must have a fixed place within the jurisdiction, and the stipulation, as I read it, Cosmic never had nor has any fixed place in the territory constituting Bangladesh.

Q Well, let's look at the language of Section 20, would you please? I believe it is reproduced on page 203 of the Rahmania v. Eagle Star.

A That's right.

Q The statute reads:

"Subject to the limitations aforesaid, every suit shall be instituted in a court within the local limits of whose jurisdiction (a) the defendant or each of the defendants, where there are more than one at the time of the commencement of the suit, actually and voluntarily resides or carries on business or personally works for gain or, (b) any of the defendants, where there are more than one at the time of the commencement of the suit, actually and voluntarily resides or carries on business or personally works for gain, provided that in such case either the leave of the court is given or the defendants do not reside or carry on business or personally work for gain as

aforesaid, acquiesce in such solution or, (c) the cause of action wholly or in part arises."

Is that not the language of the statute?

A Then I think you have read the sections with respect correctly.

Q You do concede, do you not, that part of the cause of action arose in Bangladesh?

A Yes, part of the cause of action arose in Bangladesh. To that extent, I concede and no more.

Q But you claim that subdivision (c) does not stand alone.

A It has to be read, (1) subject to the decision of the high court; (2) subject to the explanation, too, and one must not lose sight of the fact that the high court which comprises of two very senior judges were fully aware of the provisions contained in Section 20.

THE COURT: I think what Mr. Weinstein is asking you is, is it not true that the section is disjunctive and that (c) is proceeded by the conjunction "or," which would imply that you have three different ways in which a suit may be instituted -- either under (a), (b) or (c).

THE WITNESS: I would agree that the word used is disjunctive but I would add that Section 20 basically deals with the venue. It is not really a section which

confers the jurisdiction.

When it comes to a foreign corporation, the high court specifically relied upon the principles laid down by the English courts in the Bubna Moore case but, to your question, sir, that it is disjunctive, I respectfully agree.

THE COURT: But you say they would not permit it to operate in a disjunctive manner?

THE WITNESS: That's right.

Q If you say it will not be permitted to operate in a disjunctive manner, are you familiar with this book, the Code of Civil Procedure of 1908?

A Yes.

THE COURT: Show it to him.

A I have a copy, if you have the same.

Q And there are illustrations after the section in this official volume, are there not?

A Which section are you referring to, sir?

Q After Section 20, Section 20.

A Yes, sir.

Q And these illustrations were placed in there by the draftsmen of the statute, were they not?

A Yes, sir.

Q Would you read illustration (a) for us, please?

(a) "A is a tradesman in Dacca. B carries on business in Karachi. B, by his agent in Dacca, buys goods of A and requests A to deliver them to the Pakistan International Airways. A delivers the goods accordingly in Dacca. A may sue B for the price of the goods either in Dacca where the cause of action has arisen or in Karachi where B carries on business.

(b) "A resides at Murree, B at Dacca, and C at Karachi. A, B and C being together at Bahawalpur, B and C make a joint promissory note payable on demand, and deliver it to A. A may sue B and C at Bahawalpur where the cause of action arose. He may also sue them at Dacca, where B resides, or at Karachi, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot proceed without the leave of the Court."

May I, sir, with respect, add that these illustrations have no relevancy whatsoever when we are concerned with a foreign corporation.

Q But the illustration does indicate that these sections are in the disjunctive, does it not?

A I have, sir, already mentioned that they are disjunctive, but that is not how the Courts have construed when it comes to suing a foreign corporation.

Q Now, referring to the Eagle Star decision that

you cited to us, is it not true that the decision itself states: "It is common ground that no cause of action arose within the jurisdiction of the Chitagong Court"?

A In my testimony I made it clear that in that case the plaintiff purported to sue the corporation at a place where it had only a branch office but no part of the cause of action arose.

I cited this decision to show, (1) that a corporation can in law be said to carry on business only at two places; (1)where it has a principal office; (2) where it has a subordinate office provided a cause of action either wholly or in part arose at that subordinate office.

This decision I cited further to show that the Supreme Court expressly left the question open whether a corporation can be sued at a place where it has neither the principal office nor a subordinate office, but only a cause of action either wholly or in part arose and, if I may say with respect, if the case or if the issue had been that simple or that clear in the light of the word "or" disjuncting, you are trying to read, sir, there would have been no occasion for the Supreme Court to expressly make these observations.

THE COURT: Isn't it true that an appellate court is capable of anything?

THE COURT: The Supreme Court, sir? Yes.

THE COURT: Yes.

THE WITNESS: I agree, sir.

THE COURT: So do I.

Q Now, let's look at the Bubna Moore decision that you referred to.

Would you show me one reference in that decision to Section 20 of the Code of Civil Procedure?

A It does not mention it but --

Q It is not mentioned at all. is that true.

A No. In the body of the judgment --

Q Thank you very much.

A May I be permitted --

THE COURT: He can finish the answer.

Q No. It is a question that I asked and just answer the question.

THE COURT: Read back the question.

(Question read.)

THE COURT: I'll permit him to answer.

A It is only in the head note. In the body of the judgment, Section20 has not been discussed, but this is a judgment by two senior judges, Mr. Justice Akbar and Mr. Justice Asir, later becoming the Chief Justice of the Supreme Court of Pakistan, and they were fully conscious

of the provisions contained in Section 20 although the provisions are not mentioned in the judgment.

THE COURT: Is this a publicly-produced book that this came from?

THE WITNESS: It's a Law Report. Yes, my Lord.

THE COURT: Who makes up the Law Report? Is this done by the Government?

THE WITNESS: These are the agencies, but so far as I understand, it is under some supervision of the courts.

THE COURT: Who writes the head note, is what I would like to know.

THE WITNESS: I am, sir, not positive, but I would say if I were to -- probably the reporter, probably the reporter, sir.

It is, so far as I know, it is not written by the judges.

THE COURT: All right.

Q So there is no mention in the body of the decision of Section 20 of the Code of Civil Procedure, is that not correct?

A That is correct, sir.

Q Now, would you look at page 671 of that decision and in the paragraph beginning with the No. 9, it says:

"It appears that the summonses have also not been served on them," referring to the defendants.

Isn't that another ground for the decision in this case?

A Well, I wouldn't say that this is the ground. If you read the judgment as a whole, really, this question of summons had no relevancy to the question of the jurisdiction of the court.

Q Well, as a matter of fact, the Court never acquired jurisdiction over the defendants because they were never properly served with process; isn't that true?

A If you would, sir, read the judgment as a whole, as I read it, the Court relied upon the English decision and it came to the conclusion that fixed place of business was essential in order to say that a foreign corporation can be said to reside in the territory constituting Bangladesh.

Q So that you are saying here that the Court relied on some English decisions, rather than interpret its own statute?

MR. STANTON: I object to that.

A I am not saying so at all.

THE COURT: He has answered it. I'll let the answer stand.

A I am saying this-- that the Court came to the conclusion that when it comes to a foreign corporation, it could not sue; part of a cause of action was not enough, and Section 20, although the Court does not say so, Section 20 would not be applicable as far as the foreign corporation is concerned.

I am sorry, sir. That part of the clause, the cause of action part --

Q You have referred to the Companies Act in your testimony.

A That's right, sir.

Q Paragraph 5 of the stipulation in the UBL case provides with respect to Amin Jute Mills, Ltd., it has at all times had its registered office in Chitagong within the territory now known as Bangladesh, and a branch office in Karachi.

Can a registered office, under the Companies Act, which you referred to, be transferred from one country to another?

A Under the Pakistan Act called Transfer of Registered Office Ordinance, 1972, registered office of a company which had its registered office prior to the fall of East Pakistan in East Pakistan could be transferred to a place in West Pakistan.

Q But under the Companies Act that you referred to, isn't it a fact that the registered office of Amin Jute Mills could not be transferred to Karachi from Chitagong?

A These provisions in the Companies Act relating to the transfer of registered office have been superseded in Pakistan by the ordinance which I just mentioned.

Q Do you know of any enactment of the laws of Bangladesh which recognize that ordinance?

A Laws of Bangladesh? I am sorry, I am not with you, sir.

Q Do you know of any enactment of the laws of Bangladesh which recognize that ordinance of 1972 that you referred to?

A No. I am not aware of any Bangladesh law which recognizes the laws of Pakistan.

I wouldn't know.

Q When Pakistan came into being it was forged out of India at one time, was it not?

A I should think so.

THE COURT: I don't know if forgery is the operative wor[illegible]or not.

Q But the territory at one time was part of India?

THE COURT: We all know that, Mr. Weinstein.

Q And there were situations in which corporations

had their territory in Pakistan and wanted to move to India, when Pakistan was created, were there not?

A I imagine so.

THE COURT: Were you there at the time of partition?

THE WITNESS: At the time of partition, I was in Calcutta, which is now part of India.

THE COURT: You were a law student at that time?

THE WITNESS: No. I was a college student at that time.

Q And are you aware of the Chitta-Rangin Cotton Mills Limited case decided by the Supreme Court of Pakistan which held that the registered office of a company in Pakistan cannot be transferred to India after Pakistan came into being?

MR. STANTON: Objected to, your Honor.

This is not one of the authorities supplied in advance, your Honor, and I think it should not be allowed to be put to the witness.

THE COURT: I take it it is solely for purposes of cross-examination as to the weight to be given to his opinion, but if it is not within your list of authorities, I can't consider it on this case, can I?

MR. WEINSTEIN: Just for the purposes of cross-examination.

THE COURT: I'll let him answer it just for that purpose, going to the weight and credibility.

The question is, are you familiar with such a case.

A Well, I have had the occasion to read it perhaps eight, nine years back, and if I recollect right the Supreme Court was considering the Companies Act as it stood and obviously had no occasion to consider the relevant amendments that had been effected in Pakistan by the Transfer of Registered Office Ordinance 1972.

THE COURT: That 1972 ordinance has no extra-territorial effect, does it?

THE WITNESS: No, sir.

I am sorry, sir, I am not sure whether the facts you presented, since I read it a long time back, sir, I don't know if the facts that you presented of this case are correct. I am not -- because I have a feeling that it could be the other way around.

THE COURT: All right.

MR. WEINSTEIN: I have no further questions.

MR. STANTON: Your Honor, simply for the record, Mr. Haider Mota, where is your home address?

THE WITNESS: In Karachi.

MR. STANTON: Are you a citizen of Pakistan?

THE WITNESS: That's right, sir.

THE COURT: All right. You are excused.

(Witness excused.)

..

A M I R A. S I D D I Q U E, called as a witness by United Bank, Ltd., being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STANTON:

Q Where is your home address?

A My home address is at 44B, National Highway, Defense Corporate Housing Society, Karachi.

Q Where is your office?

A Office is also at Karachi. Would you like to know the specific address?

Q What is the office address?

A Office address is I. Chundiger Road, United Bank Limited, head office, American Life Building, Karachi.

Q When were you born?

A I was born in Moradabad.

Q When?

A On 2nd December, 1935.

Q Are you a citizen of Pakistan?

A Yes.

Q A naturalized citizen?

A Yes, sir.

THE COURT: Where is Moradabad?

THE WITNESS: That is India, sir.

Q Did you graduate in 1960 from Dacca University?

A Yes, sir.

Q Are you now a vice president of United Bank Limited?

A Yes, sir.

Q For how long have you been a vice president of United Bank Limited?

A I was promoted to the rank of vice president in the year 1969.

Q And have you been in charge of various zones on behalf of United Bank Limited?

A Yes, sir.

Q How long have you been with United Bank Limited?

A For ten years.

Q Where were you employed previously?

A In East Pakistan, sir.

Q More than ten years ago, who wasyour employer?

A Habib Bank Limited.

Q Now, disregarding brief, intermittent assignments, what was your last permanent assignment as a vice president

of United Bank Limited?

A In East Pakistan, sir?

Q Yes.

A I was Zonal head in the Zone of Chittagong.

Q For what years were you the Zonal head in Chittagong?

A 1970, 1971 and for a few months in 1972. For a few says in 1972. And then I left there.

Q Where was your office there?

A In the building of Laldinghi East, where the branch was located.

Q How many branches were there in the Chittagong zone?

A 34.

Q Which was the largest?

A Laldinghi East, Chittagong.

Q Who was the highest bank officer in the zone at that time?

A The Zonal head.

Q Is that what you were?

A Yes, sir.

Q And to whom did you report?

A To head office at Karachi, sir.

Q Do you know Mr. Mazid?

A Yes, sir.

Q Was he in the zone under your control at any time?

A I beg your pardon?

Q Was he at any time under your control in that zone?

A He was under my control when I was the Zonal head in Khulna.

Q What was his job at that time?

A At first he was the manager of the branch. Thereafter he was transferred to the zonal office and then to K-D-Ghosh Road branch, in Khulna.

Q How were those transfers of Mr. Mazid effected?

A These were effected under the instructions of head office at Karachi by, through me.

Q Is that the name of a gentleman?

I didn't get the answer.

A By through me.

Q When Mr. Mazid became manager of the branch, did he report directly to you or directly to the head office in Karachi, or both?

A It was to both.

Q How did that work?

THE COURT: Very poorly.

Let's try another question.

Q How was that accomplished? In what matters would

he report to you and in what matters to Karachi?

A You see, we had a manager's relieving certificate. When he joined the branch he sent a copy of the certificate to the head office and I knew that he was there. He reported to me in person.

THE COURT: Who had the right to fire the man?

THE WITNESS: The head office at Karachi, sir.

THE COURT: Who hired?

THE WITNESS: The head office at Karachi, sir.

Q Whatwere his duties as a branch manager?

A His duties were, No. 1, to carry out the orders of the head office, to administer the branch as per the directives of the head office, to administe, recover the advances as per the directives of the head office. And to do the development work.

Q What was the development work? You mean of new business?

A Yes, please.

THE COURT: What directions would you give him, if any?

THE WITNESS: In what respect, sir?

THE COURT: In any respect.

THE WITNESS: It was just to see whether the directives of the head office were carried out by the

branches.

Q Did Mr. Mazid have a power of attorney from the United Bank Limited?

A Yes, sir.

Q I show you Exhibit U-7 for identification, and ask if you can tell me what that exhibit is.

A This is the form of the officers of the company of United Bank Limited.

Q Is that the form of power of attorney which was used in the case of all officers of United Bank Limited?

A Yes, sir.

Q Does that include Mr. Mazid?

A Yes, sir.

MR. STANTON: I offer it in evidence.

THE COURT: Let's take a short recess at this time, gentlemen. About ten minutes.

(Recess.)

MR. WEINSTEIN: Your Honor, may I ask a few questions on the voir dire as to this document that's been offered?

THE COURT: Yes, certainly.

VOIR DIRE EXAMINATION

BY MR. WEINSTEIN:

Q Referring to this form marked Exhibit U-7, do

you know when it was printed, sir?

A Can I have a look at it?

Q Sure.

(Handing.)

A I wouldn't know the exact date.

Q Well, do you know approximately when it was printed?

A I wouldn't know that.

Q Well, was it printed before or after Mr. Mazid was hired?

A I wouldn't know that.

Q Were there various forms that were used by UBL over the years?

A In what respect?

Q For power of attorney?

As I recollect there was only one.

Q Did you have a power of attorney executed in favor of you at one time?

A Yes, sir.

Q And was that a four-page document?

A No.

Q Was it the same form as this?

A Yes, sir.

MR. WEINSTEIN: Your Honor, I will object to

this document on the grounds that there is no evidence that this is the same document that was used --

THE COURT: I thought he had testified that all of the branch managers had a form, had the same form.

Is that what you told us before?

THE WITNESS: Yes, sir.

THE COURT: And it seems unlikely to the Court that they would use a different power of attorney for people occupying the same position and doing the same job, so that I would be inclined to receive it for whatever weight it is entitled to on the entire record.

As I understand it, the original of the power of attorney is unavailable to this Court and he doesn't deny that he had a power of attorney.

Is the content or the specific form important to this case?

MR. WEINSTEIN: Yes, it is, your Honor.

THE COURT: Let me see the exhibit, please.

You see, the record seems to indicate Mr. Mazid did have a power of attorney and that the original of it is not presently available or did not reach the subpoena and --

MR. WEINSTEIN: Your Honor, I understand that the major difference is that this has the word "Karachi"

on the front of it which does not appear on any of the documents executed during--

THE COURT: I wouldn't attach much significance to that.

MR. STANTON: If the other side will stipulate that the balance of the text is identical, I'll withdraw the word "Karachi".

MR. WEINSTEIN: I understand from my experts that it is not.

THE COURT: Is this something that has been printed since April of 1971?

MR. STANTON: Sir, I have no knowledge.

THE COURT: Well, this came from somewhere, didn't it, Mr. Stanton?

Who produced this document?

MR. STANTON: The witness produced it.

THE COURT: Which witness?

MR. STANTON: Mr. Siddique.

THE COURT: Was this printed before or after April 10, 1971?

THE WITNESS: This was printed before, sir.

THE COURT: I'll overrule the objection but I understand that I am not to take the word "Karachi" on the front; is that correct? Or on the top of the first

page?

THE WITNESS: May I say, sir, that this power of attorneys were all executed in Karachi by the head office.

THE COURT: But the question is whether Mr. Mazid had an identical form to this and if it wasn't identical, was there any substantial difference?

THE WITNESS: No, sir, it was identical.

THE COURT: Identical to this piece of paper here, this Exhibit U-7?

THE WITNESS: Yes, sir, and there is only one form which was used in our bank for power of attorney and this was the form.

There was no changes whatsoever.

MR. WEINSTEIN: May I ask a few more questions?

THE COURT: Certainly.

VOIR DIRE EXAMINATION

BY MR. WEINSTEIN:

Q When a power of attorney such as this was executed, was there a copy kept by the head office?

A I wouldn't know.

Q Was a copy of all powers of attorney kept by the Zonal office that you were head of?

A No. The powers of attorneys were kept by the

officers with the branches, where they were posted.

Q But were there any copies of these powers of attorneys that were executed any place?

A What actually you mean by copies?

Q Carbon copies.

A No.

Q Or duplicates.

Only one was filled out for each officer, is that correct?

A I don't know.

THE COURT: Counterparts he is asking you about, whether this was executed in counterparts.

THE WITNESS: Sir, as I said before, they were executed in Karachi by the head office.

THE COURT: Just one for each man?

THE WITNESS: Yes, sir.

THE COURT: What was he supposed to do with this? What was the use of this?

THE WITNESS: Sir, it used to happen that, say, Mr. Mazid was posted in Khulna and if he wanted to deal with some other bank, then we have to produce this power of attorney to them and they put their sampts for having registered the power of attorney with them and then they accept it as authority of signing on behalf of the bank.

THE COURT: I'll take the exhibit for what it is worth.

Objection overruled.

xx (Plaintiff's Exhibit U-7 received in evidence.)

DIRECT EXAMINATION (continued)

BY MR. STANTON:

Q Let me show you a book previously marked U-11 for identification, and ask if you can describe what that book is.

A As the title of this book goes, this is called the Manual of Advances.

Q How was it used in the--

A This was a guidance and directive to the branches for handling the advances at the branches.

Q Was it sent to every branch?

A Yes, sir. It was sent to all the branches.

Q Where was it kept at the branch?

A With the branch managers.

Q What are the instructions on pages 9 through 11 of that book designed to control or effect?

A As the page 9 reads -- can I read it?

THE COURT: Don't read it out loud. He is asking you the purpose of the provisions on page 9.

Q The purpose of this chapter was that the branch

managers would process the proposals received by them from the parties and then submit to them for sanction to the head office and if it was approved by the head office, then and then only, they could give the advance to the party; otherwise not.

Q Do the instructions contained in paragraphs 30, 31, 32, 33, 34, 35, 36, 37 and 38 constitute instructions which were given to each branch manager as to the handling of limit applications?

A Yes, sir.

Q Were they followed in practice by the branches?

A Yes, sir.

Q Were they followed in practice by the Laldinghi East branch which was under your supervision?

A Yes, sir.

Q Do you know of any occasion during your tenure when these instructions were not followed?

A Well, by and large they used to follow but since ours was a business organization, at times it happened that certain parties may have immediate requirements and the proposals were very good so in very exceptional cases the managers, with the consent of the Zonal head, allowed the advances and subsequently directed the cases to head office for approval, but in that case also, the head office

had the prerogative to decline in cases, but usually since the proposals used to be good, one of this nature, it was agreed.

MR. STANTON: I offer U-11 in evidence, merely the extracted page, if I may.

THE COURT: That's pages 9, 10 and 11.

MR. WEINSTEIN: If I may examine on the voir dire.

VOIR DIRE EXAMINATION

BY MR. WEINSTEIN:

Q You said that copies of this exhibit were sent to all branches.

Did you send them?

A No, sir.

Q Who sent them?

A Thehead office.

Q Were you in the head office when they were sent?

A I was at the Zone.

Q How do you know that they were sent to all branches and not just to some of them?

A Well, sir, that was my job, to see whether the instructions were properly received by the branches.

Q Do you know if they were sent to all branches outside of your zone as well?

A I beg your pardon?

Q Do you know if they were sent to all branches outside of your zone as well?

A Yes, sir.

Q Did you check on it personally? Did you call each branch to find out if they got it?

A Well, it was not in all the cases done by me. I had inspectors also who checked that these papers sent by the head office were received by the branches.

Q Which branches?

A The branches in my zone.

Q In your zone?

A Yes.

Q The thirty some-odd branches in your zone, is that correct?

A Yes.

Q And UBL had how many branches in total at the time?

A Where?

Q All over. How many branches did UBL have?

A About 500.

Q Did you personally check on all 500 branches?

A How could I?

MR. WEINSTEIN: I move to strike the statement

that these were sent to all branches on the grounds it is hearsay.

THE COURT: It may not strictly be hearsay. If the man has knowledge of the fashion or form in which the bank conducted its affairs, he may assume the procedures were followed, and that they were sent to all branches.

They could have missed a branch?

THE WITNESS: Yes, sir.

THE COURT: That goes to the weight.

I'll overrule the objection and receive it in evidence.

(Exhibit U-11 received in evidence.)

xx

DIRECT EXAMINATION (continued)

BY MR. STANTON:

Q What was a temporary overdraft and what were the rules controlling it?

A The temporary overdraft was the advance allowed by the manager to the parties for a temporary period.

Q Were there any limits on the branch manager's discretion in allowing temporary overdrafts?

A They were not allowed to give the temporary overdrafts recklessly. They had always to justify it to the head office, all the facilities allowed by them under temporary overdrafts to various parties.

Q What was the meaning of the word "temporary" in practice?

A In practice, a party maintaining an account, a good account, with the branch, if they want, if they were in need of some advance for a temporary period, they would approach the branch manager and would seek the facility for a temporary period for, say, about seven days, and then it was supposed to be repaid.

Q Was the head office kept advised of the number of outstanding temporary overdrafts?

A Yes, sir.

Q How was that done?

A There used to be a temporary overdraft statement which was to be sent every day to the head office and the head office kept an eye on the position of the temporary overdrafts, the position of the branch.

Q Whatother controls were exercised over the operations of the branch?

A All the advances allowed by the head office - we were having different types of statements: one statement having all the accounts, mentioning all the accounts of temporary overdrafts, and the other statement having all the accounts of overdrafts. The other statement having all the accounts outstanding at the branch giving the

loans and similarly for all the types of advances.

Some statements were submitted by the branch to the head office on fortnightly basis and some were submitted by the branch to the head office on a monthly basis.

Then there were quarterly closings on those dates, the 30th of June, every year. All types of advances for the branches to be the statements, the suspense account of statements were submitted to the head office; then there were annual closings in which different types of advances and different types of statements in the branches were submitted to the head office for scrutiny, covering all the aspects of the workings of the branch.

And may I add, sir, that even the small expenses incurred by them were submitted to the head office for their information.

Q What do you mean by "small expenses"?

A Say if the branch buys some stationery or say entertainment expenditures or say if they buy something for their local use, they had to submit a statement to the head office for that for their confirmation. That was called the expenditure confirmation memo, of which copies were returned to the branch after being confirmed by the head office.

(Plaintiff's Exhibit U-19 marked for identification.)

Q Would you look at Exhibit U-19, Mr. Siddique, and after you have reviewed it, tell the Court what it is.

A This is limited renewal advice. The facilities sanction, facilities allowed, the advances allowed to Amin Jute Mill Limited. The limit was sent by the branch to the head office for their approval and it was returned by the head office to the branch after being approved.

The left-hand side of this form contains the request by the branch and the right-hand side of this form contains the approval of the head office.

THE COURT: Do we have a legible copy of this exhibit? Where is the original?

MR. STANTON: We don't have it, sir.

Q In this document, the amount of the limit on the left-hand side seems to be different from the amount of the limit on the right-hand side.

Can you explain why that is so?

A Sir, it was the prerogative of the head office to increase or decrease the facilities allowed to the parties at the branches and this was done through this instrument.

This is the limit sanction advice and in this case the head office has been pleased to increase the amount of limit from 2 crores to 2 crores 50 lacs.

THE COURT: A crore is a million rupees?

THE WITNESS: No, sir. It is 10 million.

THE COURT: And a lac is what?

THE WITNESS: A lac will be about a tenth part of a million. 10 lacs make a million.

THE COURT: 100,000 rupees?

THE WITNESS: 100,000 would be -- yes, sir.

MR. STANTON: I offer U-19, your Honor.

VOIR DIRE EXAMINATION

BY MR. WEINSTEIN:

Q Is this the first loan that was made to Amin? If you know?

A Will you kindly rephrase your question?

Q Do you know if the loan referred to on this Exhibit U-19 is the first one that was made to Amin Jute Mills?

A This is a renewal advice. The head office is the renewal facilities.

Q Is this the last renewal of a loan made by United Bank Limited to Amin?

MR. STANTON: Your Honor, this can hardly be voir dire.

THE COURT: Probably not.

MR. WEINSTEIN: I have no objection.

THE COURT: It is not voir dire.

(Plaintiff's Exhibit U-19 received in evidence.)

(Plaintiff's Exhibit U-20 marked for identification.)

BY MR. STANTON:

Q Was U-20, which you have before you, written in connection with the increase of the limit of Amin, which was referred to in the previous exhibit?

A Yes, sir.

Q By whom was it written?

A This was written by the manager but it has been signed by the advances in charge of Laldinghi East Branch by the manager.

Q Is it by this fashion that the chief account of Amin Jute Mills Limited was advised of the extension of the amount of credit that could be extended to them?

A Yes, sir.

Q What was the purpose of writing a copy to the executive vice president as is shown in the lower left-hand corner of the exhibit, if you know?

A Yes, sir. The purpose was that the branch had complied with the advice and instructions of the head office. The purpose was also to intimate thehead office

that the branch, according to the directives of the head office, has fulfilled their responsibility in asking the Amin Jute Limited, informing Amin Jute Mill Limited of the enhancement of the limit and also in asking them to fulfill the other requirements of the limit which has been sanctioned, mentioned in the limit advice.

MR. STANTON: I offer it, your Honor.

MR. WEINSTEIN: No objection.

xx (Plaintiff Exhibit U-20 received in evidence.)

xx (Plaintiff's Exhibit U-21 marked for identification.)

Q Is U-21 a letter addressed to you, Mr. Siddique?

A Yes, sir.

Q What were the circumstances surrounding the receipt by you of this letter?

A One of the directors of Amin Jute Mills Limited had gone to Karachi to discuss the account with our head office and after discussions the head office decided that the limit sanctioned to Amin Jute Mills Limited should be reduced by them and this letter was sent to me instructing me that the limit sanction had in favor of Amin Jute Mills Limited is to reduce to 2 crore 30 lacs -- sir, would you like the millions?

THE COURT: It is all right.

MR. STANTON: I offer it in evidence, your Honor.

MR. WEINSTEIN: No objection.

xx (Plaintiff's Exhibit U-21 received in evidence.)

ex (Plaintiff's Exhibit U-22 marked for identification.)

Q How did U-22 come to be written, Mr. Siddique?

A The manager of the branch in this letter confirms having received the directives of the head office on account of the limit sanctioned in favor of Amin Jute Mills Limited being reduced by head office to rupees 2 crore and 30 lacs. The manager of the branch has confirmed having not had the instructions of the head office.

In this letter, the manager of the branch has also confirmed the increase in the rate of interest which was advice to him by the head office.

He has also confirmed having noted instructions of the head office to have a proper check on the stocks hypothecated to United Bank Limited, hypothecation -- the amount of the ceiling of rupees 15 lacs.

Q Is that the normal course that the banks followed in such situations?

A Yes, sir.

MR. STANTON: I offer it in evidence.

THE COURT: Received.

xx (Plaintiff's Exhibit U-22 received in evidence.)

zx (Plaintiff's Exhibit U-23 marked for identification.)

MR. WEINSTEIN: If your Honor please, I think U-23 speaks for itself and I have no objection to its introduction.

THE COURT: All right. I will be received in evidence then.

xx (Plaintiff's Exhibit U-23 received in evidence.)

Q With respect to U-23 in evidence, was the approval of the head office required before a branch could open a letter of credit?

A Yes, sir.

Q Was that true in all cases?

A Well, as I told you, at times the branch utilized their discretion due to the urgencies of the requirement. Otherwise, usually they were required to obtain approval from the head office, if all of the limit was not sanctioned.

Q What was the advice of the letter of credit being opened in this instance reflected in U-23?

A 40,000 rupees.

Q How much was that in June 10, 1971, in approximate

dollar equivalent?

A $2,000.

MR. STANTON: Your Honor, I'll now hand up and ask to be marked for identification rather poor photocopies of a document which is contained among the exhibits to the stipulation.

THE COURT: Anything that is attached to the stipulation doesn't need to be offered again. It is before the Court. The same goes for the other stipulations.

MR. STANTON: Then if we can just use this for ease of reference --

THE COURT: Yes. Identify it by the number it bears on the stipulation.

MR. STANTON: It is contained among those letters of transmittal in Exhibit 12.

THE COURT: All right. Let's proceed.

Q Can you describe for us the function of this instrument?

A Yes, sir. This is called a forwarding schedule for foreign document bills for collection.

Q And where is this instrument first completed? Where does it start?

A At the branch.

Q In this case, which branch?

A In this case, Laldinghi East Branch.

Q And it is an instruction to Irving Trust Company; does it instruct Irving Trust Company where to credit the proceeds?

A Yes, sir. It does.

Q Where is that done on this instrument?

A It is written here as a matter of fact on the right side of the document. "Credit proceeds Karachi Office."

MR. WEINSTEIN: If your Honor please, the document speaks for itself and the issues have been stipulated to.

THE COURT: I think so.

The question that is not clear to the Court is what was it the de facto government should have done on December 19, 1971.

The stipulated facts give me a Declaration of Independence on April 10, which is supposedly as of March 25, and the date of surrender of the Pakistan troops is said to be December 16.

Now, who had the government in Chittagong when this particular document was issued?

THE WITNESS: It was the Pakistan Government, sir.

THE COURT: It was?

THE WITNESS: Yes, sir.

Q You were there, were you not?

A Yes, sir.

THE COURT: I take it parts of the country were held by the Bangladesh Army, is that right?

THE WITNESS: Not in July in 1971, sir.

THE COURT: How is it that this Proclamation of Independence is dated April 10 and it purports to be as of March 25, 1971?

THE WITNESS: Well, sir, as the news came in the papers that we read in Chittagong at that time, it was from a part of India that the declaration was issued.

THE COURT: Was there any fighting going on in March?

THE WITNESS: In March --

THE COURT: Or April?

THE WITNESS: No, sir.

Q When did the fighting commence near Laldinghi East, if there was any fighting in that area?

A The fighting between the armies?

Q Whatever fighting there was.

A I don't exactly remember the date.

Q Can you give us an approximate month?

THE COURT: After July?

THE WITNESS: Yes, sir. It was in December 1971. And November -- end of November or early December.

Q Looking at the letter of transmittal which you have before you, by whom was it signed?

A It was signed by the officers at Laldinghi East Branch, Chittagong.

Q In what department were those officers?

A In the Foreign Exchange Department, sir.

Q Was that in the branch office?

A Yes, sir.

Q Was it usual for the officers in the branch office to direct that the funds be remitted to the Karachi office?

A It was compulsory on the officers to direct the foreign correspondence like this.

MR. STANTON: Your Honor, I don't know whether it is simpler to mark this since there has been testimony on it --

THE COURT: You may mark it for identification and the Court understands it is a document already in the stipulation.

THE COURT: Yes, sir. It is one of the letters of transmittal.

zx (Plaintiff United Exhibit, U-24, marked for identification.)

Q Let me show you a copy of Exhibit U-14 in evidence --

THE COURT: What was the shipment arrival date?

MR. STANTON: On that shipment, your Honor?

THE COURT: Yes.

MR. STANTON: May I ask my associate to figure that out and let us know?

THE COURT: Is that in the stipulation?

MR.STANTON: I am not sure that each shipment is keyed to each letter of transmittal. The dates of shipment are given and the dates of arrival, I believe.

THE COURT: But you see, the person to whom this document was directed, as I interpret the document, was not required to do anything until the arrival of the shipment and at that time Irving Trust Company was to credit proceeds to account under airmail advice to us at Karachi office, "us" being the United Bank.

All right. You may continue.

Q You have Exhibit U-14 in evidence before you?

A Yes, sir.

Q What does that chart and statement represent?

A This is called the Daily Statements of Affairs.

Q Yes?

A Showing the complete position of the branch.

Q To whom was it rendered?

A Yes, please?

Q To whom was it rendered?

A It was primarily meant to be prepared by the branches and to be sent to head office to keep them informed of the position at the branches.

Q Now, in the lower left-hand corner there is a line captioned "Total Deposits."

A Yes, sir.

Q What does that reflect?

A This reflects the total deposits of the branch.

Q This is money that customers of the branch have deposited in it?

A Yes, sir.

Q What does total advances reflect?

A This reflects the total advances made at the branch.

Q If, as here, the amount of total advances is much greater than the amount of total deposits, where does the balance come from?

A This came from head office at Karachi.

Q Through the authorized advances that you have

described?

A Yes, sir.

Q Is this the latest statement that you have from the Laldinghi East Branch?

A Yes, sir.

Q How were these figures taken into account at United Bank Limited headquarters in Karachi?

A The statementsof affairs, like this, were consolidated at the head office and a consolidated position was prepared at the head office Karachi and with the help of those figures, the balance sheet was prepared.

Q So, it was on the basis of the consolidated figures that dividends were declared for the bank as a whole?

A Yes, sir.

Q Is United Bank Limited now honoring obligations to parties outside of Bangladesh which were entered into by its East Pakistan branches before the emergence of Bangladesh?

A Yes, sir.

THE COURT: In all cases?

THE WITNESS: Yes, sir.

MR.STANTON: That's all. Thank you.

THE COURT: You have no questions, do you, Mrs. Kaye?

MRS. KAYE: No, I don't, your Honor.

CROSS-EXAMINATION

BY MR. WEINSTEIN:

Q Did each branch of United Bank Limited have its own books and accounts?

A Yes, sir, for the purpose of maintaining accounts of the branch.

Q And did each branch of United Bank Limited have its own assets and liabilities?

A For the purpose of accounting, yes.

Q And did it have its own liabilities that were physically separated, and assets?

A I wouldn't say that, no. They were not physically separated.

Q When a bank had made advances of more than its deposits, as is exhibited on U-14, did that branch pay interest to the head office for the necessary funds to make up the difference?

A I am sorry. Would you kindly repeat?

Q When a branch had made advances totaling more than its deposits as is shown on Exhibit U-14, did that branch have to pay interest to the head office for the moneys necessary to make up the difference?

A Yes, sir. They did pay.

THE COURT: Where did they get the money to pay the interest?

A Sir, they had their own income and expenditures.

THE COURT: And if they had no income, did they pay interest?

THE WITNESS: Yes, sir, they did, but then they increased the losses of the branch which was again consolidated and reflected in the balance sheet of the branch, of the bank.

Q Do you know a Mr. V. H. Abidi?

A Yes, sir.

Q What was his position with the bank?

A At what time?

Q At the time when Mr. Mazid was hired.

A He was regional manager there.

Q Isn't it a fact that Mr. Abidi was the one who was responsible for hiring Mr. Mazid?

A No, sir.

Q Did he hold the position of Zonal Head prior to your assuming that position?

A Not exactly just before me but yes, he did, he was there before me, yes.

Q He did not hire Mr. Mazid?

A He was hired by the head office, through Mr.Abidi.

Q Can you repeat for me the duties of Mr. Mazid in his position under your control?

A Yes, sir. He was administering the branch according to the directives of the head office; he was controlling the advances allowed at the branch as per the directives of the head office and he was doing other functions at the branch as branch manager, which was required of him as per the general policy directions of the head office.

MR. WEINSTEIN: I ask the reporter to please mark that statement.

THE COURT: No. Let's get along with this trial. You don't need to mark the statement.

Q Do you know which branch advanced the funds to Amin Jute Mills Limited?

A Yes, sir.

Q Which branch was it?

A Laldinghi East Branch, Chittagong.

Q Where was the document surrounding these particular advances to Amin kept?

A What document, sir?

Q Whatever documents there were pertaining to the advances.

THE COURT: Well, let's find out what documents

there were first and then you can ask where they were kept.

Q The letter of continuity, for instance.

A This was kept at the branch as required in the Manual of Advances.

Q And the forwarding and delivery letters, where were they kept?

A I beg your pardon?

Q The forwarding letters for these documents, where were they kept?

A Which letters?

Q The forwarding letters with which the documents were sent?

A I am sorry. I am not clear.

MR. WEINSTEIN: I'll withdraw the question.

Q Where was the promissory note kept?

MR. STANTON: I thought we entered into a stipulation at Mr. Weinstein's request at the beginning of the day.

THE COURT: If these matters are covered by the stipulation, there is no need of examining this witness about it.

MR. STANTON: May I hand up the Companies Act, which Mr. Haider Mota is willing to surrender possession of

in the interest of the cause.

THE COURT: All right.

Q Referring to Exhibit U-11, were there advances made to Amin prior to the date of that exhibit, June 16, 1970?

A June 16?

Q Well, would you look at Exhibit U-11 and you will see the date it was printed.

A I don't recollect.

Q What is the date on Exhibit U-19?

THE COURT: The date speaks for itself. The Court will recognize that they were a customer prior to 1971.

Q Were there any instructions issued prior to Exhibit U-11?

A This one?

Q Yes.

A You see, sir, our bank was established in the year 1959 and we were trying to improve our working processes. We were working on the principles and the principles on which we had been working, the instructions of the head office, they were all kept in this manual.

Q Was there a memo prepared prior to the date of that U-11?

A What sort of memo, sir?

Q Pertaining to cash advances.

A I don't get your question, sir.

Q Well, was there a memo circulated to the branch managers prior to the date of Exhibit U-11 indicating how they should handle cash advances, a memo from the head office?

A You mean to say the instructions?

Q Yes.

A Well, I wouldn't remember. I don't remember that.

THE COURT: He is really asking you- was there a book before this book? Did the bank have a book like that before the date of that book?

THE WITNESS: No, sir, but we were -- no, I don't think so.

MR. STANTON: May the record show this is a looseleaf book?

THE COURT: The Court understands that.

Q Were any pages in that looseleaf book ever inserted or taken out from time to time?

A Not by me, sir.

Q Now, some reference was made to the instructions to Irving Trust to credit the proceeds that they received from Cosmic to the Karachi office.

Is it not a fact that the Government of Pakistan had imposed some restrictions on dealing in foreign exchange?

THE COURT: Would you fix a time in the question?

Q At the end of 1971.

THE COURT: Even that time is a little difficult for us here.

Would you fix a time with reference to before or after the change in status in Chittagong, whatever you consider from your side of the case that to be?

Q Did the Government of Pakistan establiish restrictions on foreign exchange prior to December 16, 1971?

A I don't remember.

Q Well,isn't it a fact that only certain banks and only certain branches within those banks were authorized to deal in foreign exchange prior to December 16, 1971?

A Yes, sir. Only the authorized branches were.

Q And the only authorized branch to deal in foreign exchange in the United Bank Limited was the Karachi office, isn't that a fact?

A No, sir. It was Laldinghi also which was authorized to deal in foreign exchange.

THE COURT: Who was?

THE WITNESS: The Laldinghi branch, Chittagong.

Q Was the McLeod Road office authorized to deal with foreign exchange?

A McLeod Road branch was also an authorized branch to deal in foreign exchanges but they were the only branch who were maintaining accounts with foreign banks.

THE COURT: "They" being whom?

THE WITNESS: The McLeod Road branch at Karachi.

Q They were the only ones dealing in foreign exchange, right?

A Yes.

MR. WEINSTEIN: Thank you.

THE COURT: Anything further for this witness?

REDIRECT EXAMINATION

BY MR. STANTON:

Q Was the charge for intyrest which you referred to at the beginning of your cross-examination merely a charge for internal bookkeeping as a measure of profitability among the branches?

A Yes, sir. It was only for this purpose.

MR. STANTON: That's all.

THE COURT: Anything further for this witness?

All right, you are excused.

You may step down.

(Witness excused.)

THE COURT: Is there anything further?

MR. STANTON: No, sir.

THE COURT: Does anyone have anything further?

MR. WEINSTEIN: Yes, your Honor.

I would like to recall my attorneys.

THE COURT: I'll have to take them tomorrow. Ten o'clock then.

MR. WEINSTEIN: I was about to recall Mr. Hossain and Mr. Huq and refer them to the citations previously cited by Mr. Haider Mota, and ask them to explain their opinions in light of those decisions.

A S R A R U L H O S S A I N, resumed:

DIRECT EXAMINATION

BY MR. WEINSTEIN:

Q Mr. Hossain, I previously asked you some questions with regard to the jurisdiction of the courts of Bangladesh over a cause of action against Cosmic International, Inc.

Have you read and are you familiar with the cases referred to by the Pakistan plaintiffs?

A Yes.

Q The Rahmania Trading Case and the Bugna-Moore case, Exhibits U-15 and 16-- when you gave us your opinion

before, were you aware of those decisions?

A Yes.

Q Do you believe that those decisions affect the answers you previously gave?

A Well, the Supreme Court judgment, namely, the Rahmania Trading Company v. Eagle Star Insurance Company, that is a judgment which had said at least in five places that they were not dealing with a case where the cause of action arose within the jurisdiction of a particular court and from that, it is very obvious that had there been a question of cause of action arising, they would think that the jurisdiction would be there and they referred to one of the Indian cases in support of the judgment and that result, which the Supreme Court of Pakistan approves, clearly says that in respect of the "cause of action which arises wholly or in part" so, therefore, it is, if you read the judgment as a whole, in my opinion, they were also approving that if there is a question of cause of action, then that would give the jurisdiction and that is one of the alternatives given under Section 20 of the Civil Procedures Code.

So far as the Bugna-Moore case is concerned, my opinion is that they did not consider the question of Section 20 of the Civil Procedure Code.

Then there was also the question of service of notice on the defendants --

THE COURT: That was only one defendant, wasn't it? It was a foreign defendant that never received a notice.

THE WITNESS: Yes. There was more than one defendant.

One was the agent of the principal and then also the foreign company, but according to the Dacca High Court, notices were not sent out to the defendant, and therefore, they took that also as a ground while deciding that this Court will not have jurisdiction but there also they did not deal with the question of cause of action.

They were dealing merely that the company was not resident within that territory. And they referred to an English case which has nothing to do with Section 20 and obviously the matters may be the same but not otherwise, because the English Court is not codified as ours, the Civil Procedure Court.

MR. WEINSTEIN: I have no further questions.

THE COURT: Any cross-examination?

MR. STANTON: No, sir.

We will respectfully call your attention to the language of the decisions which are in evidence.

THE COURT: All right.

You may step down.

(Witness excused.)

THE COURT: Anything further?

MR. WEINSTEIN: That is all I have, your Honor.

THE COURT: All the parties rest, then?

Now, let's establish our schedule, if you will, for exchange of post-trial memoranda.

Off the record.

(Discussion off the record.)

THE COURT: Four weeks after receipt of the transcript counsel will exchange memoranda, post-trial memoranda, and file them with the Court, and the same time each party will submit his exhibits other than the stipulations with a covering letter in duplicate identifying them, so they may be returned to you.

You may pick up the exhibits tonight, other than the stipulations, fom the Clerk, and resubmit them with your briefs.

Is there anything further, gentlemen?

(Recess.)

...

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EXHIBITS ANNEXED TO FOREGOING TRANSCRIPT

PLAINTIFF'S EXHIBIT 11 - LETTER FR[illegible] ZAFAR AHMAD KHAN TO IRVING TRUST CO., DATED JANUARY 22, 1972 ANNEXED JA398

NATIONAL BANK OF PAKISTAN

FOREIGN DEPARTMENT

INCORPORATED IN PAKISTAN UNDER THE NATIONAL BANK OF PAKISTAN ORDINANCE 1949

THE LIABILITY OF MEMBERS IS LIMITED

[illegible] 1972 JAN 27 AM 7:50

COLLECTION DEPARTMENT

HEAD OFFICE
I. I. CHUNDRIGAR ROAD
POST BOX No. 4937
KARACHI-2

Plaintiff's Exhibit 11

TELEGRAMS : "NUPAKIST"
TELEPHONE : [illegible] (FOUR LINES)

Your Ref. Our Ref.

January 22, 1972.

M/s Irving Trust Company,
New York,
U.S.A.

Dear Sirs,

Re: Our Export Bills

We confirm our telegram of the 21st instant reading as under:

"AS YOU HAVE ALREADY BEEN NOTIFIED ALL AUTHORITIES VESTED IN OUR EAST PAKISTAN OFFICES HAVE BEEN WITHDRAWN STOP TWENTYFOUR EXPORT BILLS DRAWN BY NISHAT JUTE MILLS ON DACCA INC 555 FIFTH AVENUE NEW YORK 10017 SENT BY OUR DACCA OFFICE INCLUDING YOUR COLLECTION NUMBER F 529P STILL PENDING WITH YOU STOP KINDLY ENSURE THAT THEIR PROCEEDS ARE PAID TO OUR ACCOUNT WITH OUR NEW YORK BRANCH AND NOT DISPOSED OTHERWISE TESTED MILLATBANK KARACHI"

A list of the export bills sent to you by our Dacca Office for collection on behalf of M/s Nishat Jute Mills Ltd. to which our telegram relates, is enclosed for your ready reference.

Yours faithfully,

(Zafar Ahmad Khan)
Chief Foreign Manager.

Encl:1.

Plaintiff's Exhibit 11 - Letter From Zafar Ahmad Khan to Irving Trust Co., Dated January 22, 1972 JA399

TESTER'S INITIALS WILL APPEAR IN THIS SPACE IF THE MESSAGE IS PROPERLY AUTHENTICATED

JAN 21-24-72FMR

1059

LT

NEW YORK

AUTHENTICATED

COLL 10/4

DEPT. IMMEDIATELY OF ANY DISCREPANCIES REGARDING PORTIONS CROSSED OUT OR NOT CROSSED OUT.

COPY OF PLAINTIFFS' EXHIBIT 12

ZCZC 234284 DSH1059 RMX7162 KPN322 KC285
URAW HL PWKR 211
KARACHI 211/210 21 1640

LT
PAKAMIR NEWYORK

FOLLOWING POINTS FOR YOUR CONSIDERATION STOP NISHATJUTE MILLS REGISTERED OFFICE KARACHI BALANCE AMOUNT DUE FROM YOU TO BE DIVERTED TO NATIONAL BANK KARACHI INSTEAD OF NATIONAL BANK DACCA STOP HEAD OFFICE NATIONAL BANK IS KARACHI AND HAS FINAL AUTHORITY OVER BRANCHES OF EAST PAKISTAN ACCORDINGLY NATIONAL BANK

P2

DACCA HAS NO AUTHORITY TO NEGOTIATE THE DOCUMENT OR RECEIVE ANY PAYMENT ON BEHALF OF NATIONAL BANK PAKISTAN KARACHI STOP NATIONAL BANK KARACHI CANCELLED THE AUTHORITY OF NATIONAL BANK DACCA AND LICENSE DEALING WITH FOREIGN EXCHANGE ON EIGHTEEN DECEMBER 1971 LEGALLY NATIONAL BANK DACCA HAS NO AUTHORITY WHATSOEVER TO DEAL

P3

IN FOREIGN EXCHANGE ON OUR BEHALF AND RECEIVE PAYMENT ON OUR BEHALF STOP STATE BANK ALSO CANCELLED THE LICENSE OF NATIONAL BANK DACCA TO OPERATE AS A BANKER ON BEHALF OF NATIONAL BANK KARACHI STOP IRVING TRUST COMPANY HAS NO JURISDICTION OR BINDING TO SEND THESE AMOUNTS TO DACCA WHICH

P4

ARE RIGHTFULLY AND LEGALLY SUPPOSED TO BE SENT TO OUR KARACHI ACCOUNT STOP IF BALANCE AMOUNT NOT REMITTED TO OUR

JA401

Plaintiff's Exhibit 12- Copies of Cablegrams

KARACHI ACCOUNT WE SHALL HOLD YOU RESPONSIBLE STOP
KEEPING IN VIEW ABOVE POINTS PLEASE INSTRUCT IRVING
TRUST COMPANY TO DIVERT THE PAYMENT TO KARACHI OTHERWISE
YOU SHALL HOLD IRVING TRUST COMPANY
P5
RESPONSIBLE FOR THE LOSSES SO INCURRED ON THIS ACCOUNT
UNIONSCO
CFM 1971

PAKAMIN
NEWYORK

11

FOLLOWING POINTS FOR YOUR CONSIDERATION STOP NISHAT JUTE MILLS REGISTERED OFFICE KARACHI BALANCE AMOUNT DUE FROM YOU TO BE DIVERTED TO NATIONAL BANK KARACHI INSTEAD OF NATIONAL BANK DACCA STOP HEAD OFFICE NATIONAL BANK IS KARACHI AND HAS FINAL AUTHORITY OVER BRANCHES OF EAST PAKISTAN ACCORDINGLY NATIONAL BANK DACCA HAS NO AUTHORITY TO NEGOTIATE THE DOCUMENT OR RECEIVE ANY PAYMENT ON BEHALF OF NATIONAL BANK PAKISTAN KARACHI STOP NATIONAL BANK KARACHI CANCELLED THE AUTHORITY OF NATIONAL BANK DACCA AND LICENCE DEALING WITH FOREIGN EXCHANGE ON EIGHTEEN DECEMBER 1971 LOCALLY NATIONAL BANK DACCA HAS NO AUTHORITY WHATSOEVER TO DEAL IN FOREIGN EXCHANGE ON OUR BEHALF AND RECEIVE PAYMENT ON OUR BEHALF STOP STATE BANK ALSO CANCELLED THE LICENCE OF NATIONAL BANK DACCA TO OPERATE AS A BANKER ON BEHALF OF NATIONAL BANK KARACHI STOP IRVING TRUST COMPANY HAS NO JURISDICATION OR DIRECTION TO SEND THESE AMOUNTS TO DACCA WHICH ARE RIGHTFULLY AND LEGALLY SUPPOSED TOBE SENT TO OUR KARACHI ACCOUNT STOP IF BALANCE AMOUNT NOT REMITTED TO OUR KARACHI ACCOUNT WE SHALL HOLD YOU RESPONSIBLE STOP KEEPING IN VIEW ABOVE POINTS PLEASE INSTRUCT IRVING TRUST COMPANY TO DIVERT THE PAYMENT TO KARACHI OTHERWISE YOU SHALL HOLD IRVING TRUST COMPANY RESPONSIBLE FOR THE LOSSES SO INCURRED ON THIS ACCOUNT

UNIVISCO

Not to be telegraphed:

Nishat Jute Mills Limited,
9th Floor, Adamjee House,
I.I.Chundrigar Road,
Karachi.

(RAUF AYOOB)
DIRECTOR

Dated: 21st January, 1972

(125)

PLAINTIFF'S EXHIBIT U15 - DECISION IN RAHMANIA TRADING CO. v. EAGLE STAR INSUR. CO., LTD. (PAKISTAN)

Bashir Ahmad Khan v. Mahmud Ali Khan

Cornelius, J

of promotion of the promoted officer, by reference to the date upon which the two rival claimants commenced their periods of continuous officiation immediately prior to appointment to the higher post. The fourth proposition laid down in the leading judgment delivered in the High Court is to this precise effect and in our opinion, it is a correct inference which may properly be drawn from the wording of rule 4 (*a*) of the Rules as it stands.

It remains to add that these Rules of 1929 were retained in force by virtue of provisions in the Government of India Act, 1935, in the Indian Independence Act, 1947 and in the Constitution of Pakistan of 1956. In the discussion above, which is based upon the wording of the Rules as they stand, references to the "Indian Police Service" should be understood as applicable in Pakistan today to the "Police Service of Pakistan."

We accordingly dismiss all three appeals, and in the special circumstances we make no orders as to costs.

A. H. *Appeals dismissed.*

P L D 1960 Supreme Court (Pak.) 202

Present : Muhammad Munir, C. J., A. R. Cornelius, Amiruddin Ahmad and S. A. Rahman, JJ

MESSRS RAHMANIA TRADING COMPANY—Appellant

versus

MESSRS EAGLE STAR INSURANCE COMPANY, LTD.—Respondent

Rahmania Trading Co. v. Eagle Star Insurance Co., Ltd.

Civil Appeal No. 22-D of 1959, decided on 20th January 1960 (at Dacca).

(On appeal from the judgment and decree of the High Court of East Pakistan, Dacca, dated the 4th July 1958, in Civil Rule No. 408 of 1958).

Muhammad Munir, C J, Cornelius, Amiruddin Ahmad and Rahman, J

Civil Procedure Code (V of 1908), S. 20, Explanation II—Corporation deemed to carry on business (1) at its sole or principal office, irrespective of whether cause of action arose there, (2) at place where it has subordinate office provided cause of action accrues at that place—Interpretation of statutes—"Explanation"—Function of.

Held, that despite the words 'shall be deemed', in Explanation II to section 20, Civil Procedure Code in terms defines the words 'carries on business' used in clauses (*a*) and (*b*) of the section and means that where the defendant is a corporation it is deemed to be carrying on business at its sole or principal office irrespective of whether the cause of action has arisen there as well as at the place where it has its subordinate office, provided the cause of action arises there. [p. 204]A

Bhola Nath Aggarwala and another v. *The Empire of India Life Assurance Co., Ltd.* A I R 1948 Lah. 56 *ref.*

An Explanation is enacted by the legislature to explain what otherwise would be doubtful or ambiguous. To the extent that

it explains a stipulated situation its function is definitive inasmuch as it clarifies or defines the legal position in a supposed state of facts. [p. 204]*B*

Ahmad Sobhan, Advocate Supreme Court, instructed by *Ayazuddin*, Attorney for Appellant.

Abu Md. Abdullah and *S. M. Hossain*, Advocates Supreme Court, instructed by *A. N. M. Nasiruddin*, Attorney for Respondent.

Dates of hearing : 22nd and 25th January 1960.

Rahmania Trading Co. v. Eagle Star Insurance Co., Ltd.

Muhammad Munir, C J, Cornelius, Amiruddin Ahmad and Rahman, JJ

JUDGMENT

Muhammad Munir, C J

MUHAMMAD MUNIR, C. J.—This is an appeal by special leave from the judgment of a Division Bench of the High Court of East Pakistan at Dacca reversing in exercise of its revisional jurisdiction a finding by the Trial Court that it had jurisdiction and directing the plaint in the suit to be presented to a Court of competent jurisdiction.

The appellant, Messrs Rahmania Trading Company, instituted against the respondent Messrs Eagle Star Insurance Company Limited, a suit in a Court at Chittagong on an insurance policy. The respondent is a foreign company but has been registered under the Pakistan Law, with its head office in Karachi. Messrs Shaw Wallace (Pakistan) Ltd. are the principal agents of the Company in Chittagong. It is common ground that no cause of actionuarose within the jurisdiction of the Chittagong Court. The Subordinate Judge in whose Court the suit had been instituted found on the evidence that the respondent was carrying on business in Chittagong and that therefore the Court had the jurisdiction to try the suit. On revision the High Court has reversed this finding and held that the Chittagong Court had no jurisdiction as the defendant was not proved to be carrying on business at Chittagong. In the present appeal the sole question, and it is a very important legal question, is whether the second explanation to secttion 20 of the Civil Procedure Code has the effect of restricting or of widening the meaning of the words 'carries on business' used in clauses (*a*) and (*b*) of the section. The High Court seems to be of the opinion, though no authority is cited in support of it, that the explanation is not restrictive but has the effect of extending the liability of a corporation to be sued at a place where it has its principal office or at a place where it has a subordinate office provided in the latter case the cause of action accrues there. We regret we are unable to share this view. Section 20 is as follows :

"Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction—

(*a*) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or, personally works for gain ; or

(*b*) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain provided that in such case either the leave of the

Rahmania Trading Co. v. *Eagle Star Insurance Co., Ltd.*

Muhammad Munir, C J

Court is given or the defendants who do not reside or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution ; or

(*c*) the cause of action, wholly or in part, arises.

Explanation I.— [illegible] a person has a permanent dwelling at one place and also [illegible] mporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.

Explanation II.—A corporation shall be deemed to carry on business at its sole or principal office in the Provinces and the Capital of the Federation or, in respect of any cause of action arising at any place where it has also subordinate office, at such place."

An Explanation is enacted by the legislature to explain what otherwise would be doubtful or ambiguous. To the extent that it explains a stipulated situation its function is definitive inasmuch as it clarifies or defines the legal position in a supposed state of facts. Therefore, despite the words 'shall be deemed' Explanation (2) in terms defines the words 'carries on business' used in clauses (*a*) and (*b*) of the section, and means that where the defendant is a corporation, it is deemed to be carrying on business at its sole or principal office irrespective of whether the cause of action has arisen there, as well as of at the place where it has its subordinate office, provided the cause of action arises there. This appears to us to be its plain meaning.

Of the cases cited by the appellant none is in point except *Bhola Nath Aggarwal and another* v. *The Empire of India life Assurance Co. Ltd.* (1) but it goes against his own contention and supports the view we are taking. Khosla J. observed there :

> "It is, therefore, clear that the corporation can be said to carry on business at the head office or at the place where it has a branch in respect of a cause of action which arises, wholly or in part, at the place where the branch office is situated. If no part of the cause of action arises at the place of the branch office, the corporation cannot be said to transact business at that place. This is the only possible interpretation of Explanation II, and not a single case cited before me has taken the contrary view. Therefore, the Courts at Lahore, can only have jurisdiction if it can be shown that the cause of action, wholly or in part, arose within the jurisdiction of the Lahore Courts, otherwise the suit must be instituted at Bombay where the head office is situated or at some place where the cause of action, wholly or in part, arose."

We consider this to be a correct, statement of the function of the Explanation.

We might, however, mention that we are not called upon to and do not decide the question whether a corporation can be sued in a place where the whole or a part of the cause of action arises if it has neither its principal officer nor a subordinate

(1) A I R 1948 Lah.56

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office there. Nor is it necessary for us to express any opinion on the question whether the Explanation also controls the words "carries on business" in section 19. It is sufficient to state that since the cause of action did not accrue at Chittagong and the defendant's principal office is at Karachi, the Chittagong Court had no jurisdiction. The result is that we dismiss the appeal with costs, though on grounds which did not find favour with the High Court.

Appeal dismissed.

A. H.

Rahmania Trading Co. v. Eagle Star Insurance Co. Ltd.

Muhammad Munir, C J

P L D 1960 Supreme Court (Pak.) 205

Present : Muhammad Munir, C. J., A. R. Cornelius, Amiruddin Ahmad and S. A. Rahman, JJ

MIR KHAN and others—Appellants

versus

THE STATE—Respondent

Criminal Appeal No. 7 of 1960, decided on 4th April 1960.

(On appeal from the judgment and order of the High Court of West Pakistan, Karachi, dated the 15th May 1959, in Confirmation Case No. 7 of 1959 ; Criminal Appeals Nos. 69—72 of 1959)

Mir Khan v. The State

Muhammad Munir, C J, Cornelius, Amiruddin Ahmad and Rahman, JJ

Constitution of Pakistan (1956), Art. 163 (3)—"Doing complete justice"—Supreme Court may suo motu *enhance sentence after notice to accused-appellant in course of appeal.*

The accused-appellants were convicted under sections 302, 307 and 333, P. P. C. and sentenced to death and certain terms of imprisonment. In the Supreme Court they were given benefit of doubt and the conviction and sentences of death under section 302, P. P. C. were set aside. In view of the seriousness of the offence, however, the Court, after notice, enhanced the sentence of 7 years' rigorous imprisonment under section 307, P. P. C. to one of transportation for life, observing :

"Sentence of 7 years' rigorous imprisonment is wholly insufficient as a penalty for the particular crime of which the appellants have been found guilty. Their whole conduct exhibits an enormity which in our opinion cannot be properly visited with any punishment less than the maximum allowed by law. We, therefore, propose in the exercise of power vested in us by Article 163, subsection (3) of "doing complete justice in any cause or matter" to enhance the punishment awarded to the appellants under section 307, P. P. C." [p. 208]*A*

M. Z. Kitchlew, Advocate Supreme Court for Appellants.

Jamil Hussain Rizvi, Advocate-General, West Pakistan, (*Attaullah Sajjad*, Advocate Supreme Court with him), instructed by *Ijaz Ali*, Attorney for Respondent.

Date of hearing : 22nd March 1960.

PLAINTIFF'S EXHIBIT U16 - DECISION IN BUBNA MORE & CO. (PAKISTAN) LTD. v. MODERN TRADING CO.,

P L D 1960 Dacca 668

Before Akbar and Asir, JJ

MESSRS BUBNA MORE & CO. (PAKISTAN) LTD. CHITTAGONG—Appellant

versus

MESSRS MODERN TRADING CO. (PAKISTAN) LTD. CHITTAGONG AND ANOTHER—Respondents

First Appeal No. 137 of 1954, decided on 16th February 1960.

Bubna More & Co. v. Modern Trading Co.

Akbar and Asir, JJ

(*a*) *Civil Procedure Code* (*V of 1908*), *S. 20, Explanation II—Foreign Company not resident in country entering into contract through agent in Pakistan—Extent of authority of agent not such as to indicate that company did business by them.—Company sued on basis of contract in Pakistan—Company not amenable to jurisdiction of Pakistan Courts.*

Where a foreign company, not resident in Pakistan, entered into a contract with a local company through an agent residing in Pakistan but whose extent of authority was not such as to indicate that the foreign company did business by them, in a suit based upon such a contract, it was held that although the foreign company as principal was admittedly bound by the terms of the contract made on their behalf and by their authority yet it was not amenable to the jurisdiction of the Courts in Pakistan. [p. 670]*A*

Dunlop Pneumatic Tyre Company, Limited v. *Actien-Gesellschaft and Fur Motor Und Motorfahrzeugbau Vorm. Cudell & Co.* (*1902*) I K B 342 *rel.*

Messrs Eagle Star Insurance Co. Ltd. v. *Mess Rahmania Trading Company* Civil Revision Case No. 408 of 1958 (unreported) *rel.*

(*b*) *Contract Act* (*IX of 1872*), *S. 230—Application.*

There was a contract between the plaintiff company and foreign company through their agent in Pakistan. Throughout the body of the contract the foreign company had been described as principal. Further, the Arbitration clause in the contract clearly asserted that the Agent would have no personal liability in the matter. It was held that in such circumstance no question of undisclosed principal could arise in the case and therefore, section 230 of the Contract Act, 1872, was not applicable so as to make the agent liable for any loss sustained by the plaintiff-company. [p. 674]*B*

Fazal Illahi v. *The Imperial Chemical Company, Delhi 67 I C 157 disting.*

Sirdar Gurdyal Singh v. *The Rajah of Faridkote* 21 I A 171 *ref.*

B. C. Das and S. C. Bose for Appellant.

S. M. Hossain for Respondents.

JUDGMENT

Akbar, J

AKBAR, J.—This first appeal by the plaintiff, Messrs Bubna More & Co. (Pakistan), Ltd. (hereinafter referred to as the Company), arises out of a suit filed by them for recovery of Rs. 39,000 under the following circumstances.

2. The said Company carried on business at Korbaniganj, Chittagong. The case set up by them in the plaint is that they agreed to purchase from defendant No. 2, Messrs Cotonificio Villorio Oleese, Milan (hereinafter referred to as the foreign Company), through their Agent, defendant No. 1 Messrs Modern Trading Co. (Pakistan) Ltd. (hereinafter referred to as the Agent), 125 bales of CHANDTARA brand cotton yarn under two contracts in writing dated 3-10-51 and 12-10-51 respectively, and opened irrevocable Letters of Credit in favour of the foreign Company for total value of the contracted goods. The contracted cotton yarn reached Chittagong Port in early 1952 in two lots by S. S. Onda and S. S. Laagerk. The Company on taking delivery found that the bales were not booked according to standard packing and hence they had the cotton yarn surveyed by Messrs K. Khalil & Co. The survey report showed a total shortage of 12,500 lbs. of cotton yarn. They also found that the yarn supplied was not according to standard specification. They then submitted their claims for the shortage along with the survey report to the Agent. As the Agent failed and neglected to pay their claims, they filed this suit for recovery of a sum of Rs. 39,000.

3. Only defendant No. 1, Messrs Modern Trading Co. (Pakistan) Ltd., *i.e.* the Agent, filed a written statement denying their liability under the contracts mainly on the ground that the contracts were with the foreign Company and that they, as Agent, undertook no personal liability in the matter.

The learned Subordinate Judge who tried the suit found :

(*i*) that he had no jurisdiction to entertain the suit as against defendant No. 2, the foreign company ;

(2) that defendant No. 1, the Agent, was not liable for the amount claimed in the suit ; and

(3) that the plaintiff-Company had also failed to prove the alleged short delivery of the cotton yarn.

In this view of the matter, he dismissed the suit.

4. Mr. Das, the learned Advocate for the appellant, has first contended that the foreign Company was doing business in Chittagong by their Agent, Messrs Modern Trading Co. (Pakistan) Ltd., and hence they were liable for the amount claimed in the suit. In support of his contention, he has relied on the decision in the case of *Dunlop Pneumatic Tyre Company, Limited* v. *Actien-Gesellschaft Fur Motor Und Motorfahrzeugbau Vorm. Cudell & Co.* (1). In the said case, Collins M. R. observed at page 346 :

> "It has been held in a number of cases, beginning with *Newby* v. *Van Oppen* L R 7 Q B 293, and ending with the case of *La Bourgogne* (1899) L I that the true test in such cases is whether the foreign corporation is conducting its own business at some fixed place within the jurisdiction, that being the only way in which a corporation can reside in this country. It can only so reside through its agent, not being a concrete entity itself ; but, if it so resides by its agent, it must be considered for this purpose as itself residing within the jurisdiction.

(1) (1902) 1 K B 342

Bubna More & Co. v. *Modern Trading Co.*

Akbar, J

Therefore the question is whether the foreign Company was carrying on their business in this country by their Agent, Messrs Modern Trading Co. (Pakistan), Ltd. in such a way as to be resident within the jurisdiction.

5. The plaintiff-Company have described defendant No. 1, Messrs Modern Trading Co. (Pakistan), Ltd. in the plaint as the local Agent of the foreign Company. In paragraph 1 of the plaint they clearly say that the said foreign Company has got no place of business in Pakistan. In paragraph 2 of the plaint it is stated that the plaintiff agreed to purchase from the foreign Company cotton yarn "through the agency of defendant No. 1." The plaint also shows that they established Letters of Credit in favour of the foreign Company.

6. The contracts also shew that the Agent entered into the said contracts on behalf of the foreign Company. All through the contracts the foreign Company was described as the principal and the Modern Trading Company as the Agent. The correspondence that passed between the parties also shows that the plaintiff-Company treated defendant No. 1, Messrs Modern Trading Co., as the Agent of the foreign Company.

7. On 19-2-52, the plaintiff-Company wrote to the Agent that a copy of their letter regarding shortage "should be forwarded to your Principals in Italy." On 15-3-52, they wrote :

> "We are, however, confident that you will strongly stress the matter to your principals and request them to compensate us for the loss."

On 28-3-52, they again wrote :

> ". . . . . kindly arrange with your principals for an early settlement of our claim."

From the above it is clear that the foreign Company not only never carried on business in this country but they also never gave any such impression to the plaintiff-company. Furthermore, in this case, we find no such elements or condition from which it can be inferred that the foreign Company was conducting its business by its agent at some fixed place in this country. In other words, in this case, there are no such elements necessary to constitute residence within the jurisdiction. We are therefore, unable to accept the contention of Mr. Das.

8. We may here notice an unreported decision of this Court in the case of *Messrs Eagle Star Insurance Company, Limited* v. *Messrs Rahmania Trading Company* (Civil Revision Case No. 408 of 1958) in which one of us was a party. In the above case, Rahmania Trading Company sued for recovery of certain sums on the ground that the insured goods had been damaged by the perils of the sea. The Insurance Company's main contention was that the Court had no jurisdiction to try the suit. The Court, after referring to the various decisions including the decision in the case of *Dunlop Pneumatic Tyre Company*, held :

> "There is nothing in the judgment of the Court below to show that the extent of authority of the agent was such as to indicate that the petitioner Company did business by them. Even if they did business through them as agent, that alone would not

make the Company amenable to the jurisdiction of Chittagong Court. For these reasons, we are of the opinion that even on the finding of the learned Subordinate Judge the defendant Company in this case did not reside or carry on business within the jurisdiction of the Court below."

We understand that this judgment has been upheld by the Supreme Court in C A 22-D of 1959 (1). We have already found that upon the construction of the written contracts it is not open to any doubt that the contracts were between the plaintiff-Company and the foreign Company. The contracts say so in plain terms. Further the plaintiff's letters also show that they treated Messrs Modern Trading Co. as Agent of the foreign Company. There is nothing to show that the foreign Company acted by the said Agent in this country. Hence the unreported decision referred to above is fully applicable to this case.

9. The foreign principal is admittedly bound by the terms of the contracts made on their behalf and by their authority. They, however, did not carry on any business by an Agent of this country. We have also found that the foreign Company was not resident in this country. From the order, dated 14-3-53 passed by the learned Subordinate Judge, it appears that the summonses had also not been properly served on them. In these circumstance, no decree could be pronounced against the said foreign Company by this Court. I may further observe that a decree pronounced *in absentia* by this Court, to the jurisdiction of which the foreign Company has not in any way submitted themselves, will by International Law be an absolute nullity : See *Sirdar Gurdyal Singh* v. *The Rajah of Faridkote* (1).

10. The next question is if the Agent is liable for the claim in this suit. Mr. Das has contended that notwithstanding the terms of the contract that the Agent is only an Agent, it is possible to imply a contract that the Agent will accept liability as the principal. In support of his contention, he has relied on the following terms and conditions in clauses B and C of the Contract.

"B—*Failure to Establish Letters of Credit*

Should the Buyers from any cause whatsoever fail to open an irrevocable Letter of Credit within 5 days of being called upon to do by the Firm the Buyers hereby undertake to compensate the principals and the Firm for loss of profit by payment of an amount equal to 15% of the C. I. F. or F. O. B. value of this Contract as the case may be according to the Price terms mentioned in the face of this Contract. This amount shall be paid to the Firm in Chittagong/Calcutta. Such compensation shall be in addition to the payment of all other losses or damages and the Principals and Firm will be at liberty to consider the Contract as cancelled, the Principals of the Firm may at any time or times either at the place of shipment or at the place of destination or any other place or places thereafter without notice to the Buyers re-sell the goods or any part thereof and/or the documents in respect of the same as they may think fit on

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account and risk of the Buyers, by Public Auction or by private treaty. Upon any such resale the Buyers shall pay to the Principals or the Firm forthwith on demand any shortfall, deficiency or loss resulting from such resale and all costs, charges, and expenses incidental thereto and the Buyres waive all claims to any advantages to the Principals or the Firm on any such resale.

C.—*Payment against Shipping Documents.*

If payment as mentioned in the face of the contract is to be made against shipping documents, payment shall, on receipt by the Buyers of notice to pay, be made forthwith to the Principals or to the Firm or to their order in cash at Chittagong/Calcutta against shipping documents which shall consist of :—

(*i*) The Principals' or the Firms Invoice ;

(*ii*) Bill of Lading or at the Principals' or the Firm's option delivery order or Letter of Guarantee or Delivery Telegram.

(*iii*) Policy of Insurance or at the Principals' or the Firm's option Certificate of Insurance or Letter of Insurance.

No payment or any part thereof when due hereunder shall under any circumstances be withheld by the Buyers owing to any claim whatsoever in respect of the goods and all such claims if any shall be notified in writing to the Firm in accordance with clause 10 of this Contract. Interest will be charged to the Buyers at the rate of 6% per annum on all amounts remaining unpaid to the Principals and/or the Firm after the same shall have become due and payable hereunder to the Principals and/or the Firm."

He has relied on the side-lined portion of the clauses referred to above. Mr. Das has argued that in certain eventuality the payments were to be made to the Agent and hence the Agent was also bound by the contract.

11. We are, however, unable to infer from the above clauses that the Agent made himself liable under the contract. Under clause (B), the buyers undertake "to compensate the principal" in the event of his failure to open Letters of Credit. Then it says that the said compensation shall be paid to the Agent in Chittagong. The clauses B and C clearly show that the Agent was to receive the payments on behalf of his principals. We have really failed to appreciate how these clauses can be interpreted to mean that the Agent was making himself liable for the contracts.

12. On the other hand, the arbitration clause clearly shows that the Agent was not accepting any liability under the said contract. The said Arbitration clause is as follows :

"C.—*Arbitration.*

In the event of any dispute as to quality, damage, difference from samples and any other reason whatsoever of any shipment such dispute shall be referred by the Buyers and the Firm to the authorised Chamber of Commerce of either dominions whose decision shall be conveyed and/or communicated to the Principals but the Buyers specifically and absolutely absolve the Firm [Modern Trading Co. (Pakistan), Ltd.] from any liability

arising from such a claim and the Buyers shall not hold the Firm responsible for payment of any claim should it arise."

From the other parts of the contracts also, we can find no trace of any intention on the part of the Agent to incur any personal liability in the contracts in question. We are therefore, unable to accept Mr. Das's contention that it was possible to imply from the contract that the Agent had accepted liability as Principal or otherwise. Here we may mention that the buyers looked for payment to the Principals is also clear from the letters referred to in the earlier part of the judgment.

13. Mr. Das has next argued that defendant No. 1, Modern Trading Co. (Pakistan), Ltd. has not acted merely as an Agent but also conducted themselves in a manner as if they were the Principals and hence they were liable under section 230 of the Contract Act. In support of his contention, he has relied on the decision in the case of *Fazal Illahi* v. *The Imperial Chemical Company, Delhi* (1).

The opening words of the contract are "between Messrs Bubna More & Company (Pakistan), Ltd., and Messrs Modern Trading Company (Pakistan), Ltd., on behalf of Messrs Cotonificio Vittorio Oleese, Milan." The contract then recites :"Messrs Bubna More & Co. (Pakistan), Ltd., having my/our place of business at Korbaniganj, Chittagong (hereinafter called the 'Buyers') hereby jointly and severally agree to purchase from Messrs Cotonificio Vittorio Oleese Milan (hereinafter called, the Principals,) through the agency of Messrs Modern Trading Co. (Pakistan), Ltd., (hereinafter called 'the Firm')." It is thus clear that no question of undisclosed principal arises in this case. Throughout the body of the contract the foreign Company has been described as the Principal. The letters of the plaintiff-Company also show that they looked to the Principal for payment. Lastly, in view of the conclusive assertion in the Arbitration clause, namely, that "the Buyers specifically and absolutely absolve the Firm Modern Trading Co, (Pakistan); Ltd., from any liability arising from such a claim and the Buyers shall not hold the Firm responsible for payment of any claim should it arise, " it cannot be said that the provisions of section 230 of the Contract Act are attracted to this case.

14. The decision in the case of *Fazal Illahi* v. *The Imperial Chemical Company, Delhi*, on which Mr. Das has relied is not of much assistance in this case.

15. In the said case, the Imperial Chemical Company, Delhi, placed orders with Fazal Illahi for some acid to be imported from Japan and claimed to recover from him the amount which they had to pay on account of surcharges owing to shipments having been made late. The defendant denied his liability mainly on the ground that the contract was with the merchant in Japan and the defendant was "merely their Agent". The Court. found that the Company looked to the defendant for performance of the contract, that the correspondence between the parties showed that the plaintiffs were dealing with the defendants in the matter, and that the

(1) 67 I C 157

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contracting parties were the plaintiffs and the defendent. Hence the Court held (1) that there was nothing to show that the defendant was acting only as an Agent for the dealer in Japan and hence he was liable for the amount claimed in the suit and (2) that even if the defendant was acting as an Agent for the foreign principal the presumption contained in section 230 (1) of the Contract Act had not been repelled.

16. In the instant case, we have found that the contract was between the plaintiff-Company and the foreign Company through their Agent in Chittagong. Further, the Arbitration clause in the contract clearly asserts that the Agent will have no personal liability in the matter. Hence the presumption raised by section 230 (1) is rebutted here. Thus this case is clearly distinguishable from *Fazal Illahi's case*. In the instant case, the foreign Company was the seller. The Modern Trading Company (Pakistan), Ltd., undertook no personal liability. In view of the clear terms of the contract, we have also held that section 230 of the Contract Act is not applicable to this case. Under all these circumstances, we have come to the conclusion that the Agent, the Modern Trading Co. (Pakistan), Ltd., is not liable and we do not think the mere circumstance that they had a foreign principal is enough to make them liable.

17. Before leaving this case, we would like to observe that, as the surveyor was not examined in this case, the learned Subordinate Judge was unable to accept the plaintiff's story of short delivery. We do not express any assent or dissent with the said findings. It is true that the plaintiff should have examined the Surveyor. In view of our findings that this suit does not lie against defendant No. 2, the Foreign Company, and that the Agent, defendant No. 1, is also not liable for the amount claimed in the suit we do not think any useful purpose will be served by remanding the case to enable the plaintiff Company to examine the said Surveyor.

18. For the reasons given above, we are of opinion that the judgment appealed from is right.

19. The appeal is, therefore, dismissed. Having egard to the facts and circumstances of the case, we direct that each party will bear its own costs throughout.

Asir, J

ASIR, J.—I agree.

Appeal dismissed.

A 202 Affidavit of Personal Service of Papers

LUTZ APPELLATE PRINTERS, INC.

COURT OF APPEALS
for the Second Circuit

UNITED BANK LIMITED,

Plaintiff-Appellee-Appellant,

- against -

COSMIC INTERNATIONAL, INC.,

Defendant-Appellee.

Index No.

75-7287
75-7320

Affidavit of Personal Service

STATE OF NEW YORK, COUNTY OF New York *ss.:*

I, Victor Ortega, *being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and resides at* 1027 Avenue St. John, Bronx, New York
That on the 7th *day of* July *19* 75 *at* see attached sheet

deponent served the annexed Joint Appendix *upon*

see attached sheet

the Attorneys *in this action by delivering a true copy thereof to said individual personally. Deponent knew the person so served to be the person mentioned and described in said papers as the* Attorney(s) *herein.*

Sworn to before me, this 7th
day of July *19* 75

Robert T. Brin

Victor Ortega

VICTOR ORTEGA

ROBERT T. BRIN
NOTARY PUBLIC, State of New York
No. 31-0418950
Qualified in New York County
Commission Expires March 30, 1977

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